TITLE 5—GOVERNMENT ORGANIZATION AND EMPLOYEES

This title was enacted by Pub. L. 89-554, § 1, Sept. 6, 1966, 80 Stat. 378

Part		Sec.
I.	**The Agencies Generally**	**101**
II.	**The United States Civil Service Commission**	**1101**
III.	**Employees**	**2101**

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5

Title 5 former sections	*Title 5 new sections*
1	101.
2	101.
3	See 5312.
4	3345.
5	3346.
6	3347.
7	3348.
8	3349.
9	5535(a).
10	2901.
11	2902(b).
12	2902(c).
13	Repealed.
14	Repealed.
14a	Repealed.
15	Repealed.
16	3331.
16a(a)	2903(b)(1), (2), 2904.
16a(b)	2903(c)(1).
17	Repealed. See 2905(a).
17a	Repealed. See 2905(a).
17b	2905(a).
17c	2905(b).
18	2903(a).
19	Repealed. See 2903(b), 2904.
20	2904.
21	2906.
21a	2104(1), 3332.
21b	5507.
22	301.
22-1 (1st sentence, less proviso).	7501(c), 7512(c), 7532(a).
22-1 (1st proviso)	7532(a).
22-1 (2d sentence, less proviso)	7532(b).
22-1 (2d proviso, cls. (1)—(5))	7532(c)(1)—(3), (A)—(E).
22-1 (3d proviso)	3571, 5594.
22-1 (4th and 5th provisos)	7312.
22-2	7533.
22-3	7531(9), (last sentence).
22a(1)	302(b)(1).
22a(2)	Repealed.
22a(3)	302(b)(2).
23-25	Repealed. See 305. See T. 10 §§ 124, 125, 133, 136, 3010, 3012, 5011, 5031, 8010, 8012, See T. 22 § 2664. See Reorg. Plans 1953, Nos. 1, 2, 1950, Nos. 2, 3, 5, 26, 1949, No. 3.
26	See 301, 6101.
26a	See 6101.
26b, 26c	Repealed. See 6101.
27	6106.
28	6105.
29	See 301.
29a	See 5504, 6101.
30, 30a	Repealed. See 6302—6304, 6307, 6311.
30b	See 6301(2), (i), (iii), (iv), 6302—6304.
30b-1	Repealed. See 6302(c).
30c-30e	See 6301(2), (A), (B), 6302—6304, 6311.
30e-1	See 6303, 6304.
30f	See 6307.
30g-30k	See 6307, 6311.
30*l*, 30m	Repealed. See 6302 et seq.
30n	6322.
30n-1	T. 28 § 1823(b).
30o	5537.
30p	5515.
30q	6321.
30r(a)	6323(a), (b).
30r(b)	3551.
30r(c)	502, 5534.
30r(d)	2105(d).
31	Repealed. See 301, 6101.
31a	Repealed.
31b	Repealed. See 6302(a).
32	Repealed.
33	Repealed. See 7154(a).
34	Repealed. See 3551. See T. 50 App. § 459(g).
35	Repealed. See 1302(b), (c), 2108.
35a, 36	Repealed. See 7152.
37	Repealed. See 3502(a)(2).
37a	Repealed. See 7152.
38	3341.
39	3342(1), (2).
40	3342(3).
41	T. 14 § 632.
42	Repealed.
42a	Repealed. See 3101.
43	302(b)(1), 3101.
43a(a)	3102(b)(1), (2).
43a(b)	3102(b) (last sentence).
43a(c)(1)(A)—(D)	3102(a)(1)(A).
43a(c)(1)(E), (F)	3102(a)(1)(B), (C).
43a(c)(2)—(4)	3102(a)(2)—(4).
43a(d)	3102(c).
44	T. 31 § 492-1.
45	Repealed.
46	3103.
46a	5511(a), (b).
46b	5513.
46c	T. 31 § 699a.
46d	5514(a), (c).
46e	5514(b).
47	3103, T. 18 § 1916.
47a	8301.
48	T. 28 § 514.
49	3106.
50	5501, T. 18 § 1916.
51	5536.
52	5502(a).
53	3108.
54	3107.
55	Repealed. See 3109(b).
55a	3109(b).
56 (1st sentence, cls. (a)—(c))	5503(a)(1)—(3).
56 (proviso)	5503(b).
57	See 5504, 6101.
58	See 5533.
59	See 5533, 5534.
59a(a)	See 5532(b).
59a(b)	See 5532(b), (c).
59b	Repealed.
59c	See T. 37 § 801(c).
60	Omitted. See T. 2 § 162.
61	D.C. Code 1961 Ed., § 31-631.
61a	5552(1), (2).
61a-1	Repealed. See T. 37 § 501, 501(b), (f); T. 42 § 210-1(c).
61a-1(a)	Repealed. See 5534a.
61a-1(f)	Repealed. See 2101(3).
61b (1st, 2d sentences)	5551(a).
61b (3d sentence)	6306(a).

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
61b (4th sentence (1)-(3))	6306(b).
61b (5th sentence)	6306(b).
61b (6th sentence)	5551(a).
61c	See 5581(2) (F), 5582(b).
61d	See 5551(a), 6308.
61e	See 6301(2)(iv).
61f (intro. text)	5581(1)(A), (B).
61f (First-Fourth cls.)	5582(b) (First-Fourth cls.).
61f (Fifth cl.)	5582(b) (Fifth, Sixth cls.).
61g(1)—(6)	5581(2)(A)—(F).
61g(7)	5581(2)(G), (H).
61h(a)	5583(a).
61h(b)	5583(b)(1)—(3).
61i	5581(2) (last sentence).
61j	5582(a).
61k	5581(1)(i)—(iii).
62	See 5532, 5533.
63	See 5532.
64	See 5532.
64a	Repealed.
65	Omitted. See T. 2 § 162.
66	T. 18 § 1914.
67	T. 7 § 2220.
68	T. 8 § 1353c.
69	5535(b)(1), 5536.
70	5536.
70a	5945 (1st sentence).
70b	5945 (2d sentence).
70c	5942.
71	5536.
72	5535(b)(2), (b) (last sentence).
73	See 5706, T. 28 § 509.
73a	See 5704.
73b	5731(a)(1), (2).
73b-1(a) (1st sentence, less provisos).	5724(a)(1), (2).
73b-1(a) (1st proviso)	5724(f).
73b-1(a) (2d proviso)	5724(g).
73b-1(a) (3d proviso)	5724(h).
73b-1(a) (4th proviso)	5724(e).
73b-1(a) (5th proviso)	5724(d).
73b-1(b) (1st sentence)	5724(c).
73b-1(b) (2d sentence)	5724(b).
73b-1(c)	5730.
73b-1(d) (1st sentence), (1st provision).	5725(a).
73b-1(d) (2d proviso)	5725(b).
73b-1(e)	5726(b).
73b-1(f) (1st sentence)	5727(b)(1), (2).
73b-1(f) (2d, 3d sentences).	5727(c).
73b-1(f) (4th sentence)	5727(d)(1), (2).
73b-1(f) (5th sentence)	5727(e)(1)(A), (B), (2)(A), (B).
73b-1(f) (6th sentence)	See 5721(3).
73b-2	5703(b)—(d), 5707.
73b-3(a) (intro. text, 1st, 2d provisos, last sentence).	5722, 5728, 5729.
73b-3(a) (3d, 4th provisos)	5728(a), (b).
73b-3(a) (5th, 6th provisos)	5729(a), (b).
73b-3(b)	5723(a)—(c).
73b-3(c), (d)	5723(d), (e).
73b-4	T. 41 § 5a; See, also T. 5 §§ 105, 503, 3109(a)(1), (2), 5701(1), (5), (6), 5703(a), 5721(1), (3)—(5), 5913(a), 7903 (2d sentence).
73b-4a	5724a(a).
73b-4b	5724a(b).
73b-4c(a)	5726(c).
73b-4c(b)	Repealed.
73b-4d	5724(e).
73b-4e	5724a(c).
73b-4f	5724(i).
73b-5	5732.
73c	5727(a). See 5727(b)—(e), T. 10 § 2634.
73c-1	See former 73b-1.
73c-2	Repealed.
73d (1st par.)	Repealed. See 5722, 5728.
73d (2d par.)	Repealed. See 5742.
73e	5731(b).
73f	Repealed.
74	Repealed. See 5702(a).
75	Repealed. See 5702(a).
75a	See 5911(b)—(d), (f).
75a-1	Omitted. See 5911(e).
75b	Repealed.
75c	See 5525.
75d	Repealed. See 5913(b), 5924(1).

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
76	Repealed.
76a	T. 20 § 244a.
77	See T. 40 § 491(k).
77a	Repealed. See T. 31 § 638a.
78	T. 31 § 638a.
78a	T. 31 § 638b.
78a-1	T. 31 § 638c.
79	T. 31 § 638d.
80	T. 31 § 638e.
81	Repealed.
81a	Repealed.
82	5512.
83	5946.
84	5505.
84a	T. 4 § 111.
84b	5517(a).
84c	5517(b).
84d	5518.
85	5502(b).
86	Repealed. See 6103(a), 6104.
86a	6103(a), 6104.
87	6103(a).
87a	6103(a).
87b	6103(a).
87c(a)(1), (2)	6103(b)(1), (2).
87c(b)	6103(b) (last sentence).
88	T. 31 § 554.
89	See T. 28 § 414, T. 44 § 92.
90	T. 28 § 414.
91	T. 28 § 520.
92	Repealed. See 2903, T. 28 § 637.
92a	2903(c)(2).
93	303. See T. 10 § 936(b), T. 14 § 636.
93a	Repealed.
94	304(a).
95	503(b)(1).
95a	503(b)(2), See T. 28 § 1823.
96	304(b).
97, 98	Repealed.
99, 100	T. 18 § 207.
101	501.
102	Repealed.
103	5741.
103a	5742(a)—(c).
103b	5742(d).
104	T. 31 § 492-2.
104a, 105	Repealed.
105a	2954.
106	2952.
107	Repealed.
108	T. 44 § 121.
109	See T. 40 § 483(b).
110	T. 40 § 484-1.
111	T. 44 §§ 395(e), 397(a)(1).
112	T. 44 §§ 366—376, 378—380.
113	7351.
114	Repealed. See T. 22 § 2621 et seq.
114a	T. 5 § 7342 note.
115, 115a	Repealed. See T. 22 § 2621 et seq.
116	Omitted.
116a	See 4501—4506.
117	Repealed.
118	T. 31 § 686-2.
118a	5509, 5912.
118b	T. 31 § 530a.
118c (less provisos)	5943(a) (1st sentence), (b).
118c (1st proviso)	Repealed.
118c (2d proviso)	5943(c).
118c (3d proviso)	5943(a) (2d sentence).
118c (4th proviso)	5943(d).
118c-1	Repealed. See 5943.
118d	See T. 40 § 471 et seq.
118d-1	See T. 40 § 471 et seq.
118e	See T. 22 §§ 1451—1453.
118f	5944(a)—(c).
118g	7903 (1st sentence).
118h (less provisos)	5941(a) (2d sentence, cls. (1)—(3)).
118h (1st proviso)	5941(a) (4th sentence).
118h (2d proviso)	5941(b).
118h (3d proviso)	5941(a) (3d sentence).
118h (4th proviso)	Repealed.
118i(a) (1st, 2d sentences)	7324(a).
118i(a) (3d sentence)	7324(b).

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
118i(a) (4th sentence)	7324(d).
118i(a) (5th sentence)	7327(a).
118i(b)	7325.
118i(b) (last proviso, last sentence).	Omitted.
118i(c)	1308(a)(3).
118j and 118j-1	Repealed. See 3333, 7311. See T. 18 § 1918.
118k(a)	1501(4), 1502(a)—(c).
118k(b)	1504, 1505, 1506(a)—(c).
118k(c)	1508.
118k(d)	1302(d), 1507(a)—(c), T. 1 § 1.
118k(e)	1501(4)(A).
118k(f)	1501(2), (3).
118k-1	1501(4)(B), 7324(c).
118k-2	1501(1), 7326.
118k-3	7324(a), (d)(4), (5).
118*l*	1501(5), 7324(a).
118m	7327(b).
118n	1503, 7326.
118*o*	7323. See T. 18 §§ 602, 607.
118p	7311.
118q	3333.
118r	T. 18 § 1918.
119-123	Omitted.
124-131a, 132	Repealed.
133—133r	Repealed.
133s, 133t	Omitted.
133u, 133v	Repealed.
133w	Omitted.
133x	Repealed.
133y to 133y-16	Repealed.
133z	901.
133z-1(1)—(6)	903(a)(1)—(6), (b).
133z-2	904.
133z-3	905.
133z-4(a)—(c)	906(a)—(c).
133z-5	902(1).
133z-6	902(2).
133z-7(a)(1)	907(a).
133z-7(a)(2)	907(b).
133z-7(b)	907(c).
133z-8	907(d).
133z-9	906(d).
133z-10 (intro. cl.)	908 (intro. cl.).
133z-10(a), (b)	908(1), (2).
133z-11 to 133z-15	909 to 913.
134	T. 40 § 721.
134a	T. 40 § 722.
134b	T. 40 § 723.
134b-1	T. 40 § 724.
134b-2	T. 40 § 725.
134c	T. 40 § 726.
134d	T. 40 § 727.
134e	T. 40 § 728.
134f	T. 40 § 729.
134g	T. 40 § 721 note.
134h	T. 40 § 721 note.
135—138	Repealed. See Act Aug. 2, 1946, c. 753, 60 Stat. 812, and Tables Volume for distribution in the Code.
138a—138j	Repealed.
139	T. 44 § 421.
139a	T. 44 § 422.
139b	T. 44 § 423.
139c	T. 44 § 424.
139d	T. 44 § 425.
139e	T. 44 § 426.
139f	T. 44 § 427.
140	T. 31 § 483a.
140a	T. 31 § 483b.
141—149	Repealed.
150	7901.
150e—150i	See T. 10 § 2575.
150j	See T. 10 §§ 4712, 9712.
150j-1 to 150j-3	See T. 10 §§ 4713, 9713.
150k	2105(c).
150k-1(a)	8171.
150k-1(b)	8172.
150k-1(c)	8173.
150m-150*o*	See T. 10 § 2541.
150p	See T. 10 § 2572.
150q—150t	See T. 10 § 2601.
151	T. 22 § 2651.
151a	T. 22 § 2652.
151b	T. 22 § 2653.
151c	T. 22 § 2658.
151d	Repealed. See 5313(2).
151e	Repealed. See 5315(10), (22), (46).
152	See T. 22 § 2652.
152-1	Repealed. See T. 22 § 2653.
152a	T. 22 § 2654.
152b	T. 22 § 2655.
152c, 152d, 153	Repealed.
153a	T. 22 § 2663.
154	T. 22 § 2664.
154a	Repealed.
155	T. 22 § 2665.
156	T. 22 § 2656.
157	Repealed.
158	T. 22 § 2657.
159	See T. 1 § 106a.
160	See T. 1 § 106b.
161	T. 22 § 2659.
162—164	Repealed.
165	T. 22 § 2660.
166	Repealed.
167—168d	See T. 4 §§ 141—146.
169	T. 22 § 2661.
170	T. 22 § 2668.
170a	T. 22 § 2681.
170b	T. 22 § 2682.
170c	T. 22 § 2683.
170d	Repealed. See T. 22 § 2678.
170e	T. 22 § 2666.
170e-1	T. 22 § 2667.
170f	T. 22 § 2662.
170g	T. 22 § 2669.
170h	T. 22 § 2670.
170i	T. 22 § 2671.
170j	T. 22 § 2672.
170k	T. 22 § 2673.
170*l*	T. 22 § 2674.
170m	T. 22 § 2675.
170n	T. 22 § 2676.
170*o*	T. 22 § 2677.
170p	T. 22 § 2678.
170q	T. 22 § 2679.
170r	See 5923(2).
170s	See 5922(b).
170t	T. 22 § 2680.
170u	T. 22 § 2684.
171	T. 10 §§ 131, 133.
171-1	T. 50 § 408.
171-2	T. 50 § 409.
171a	See T. 10 §§ 124, 125, 132, 133, 136, 141, 3010, 3012, 5011, 5031, 8010, 8012.
171a-1	T. 10 § 133.
171b	Repealed. See 5312(3).
171c	See 5314(33), T. 10 §§ 134—136, 718, 2358.
171c-1	Repealed. See 5313(1).
171c-2	Repealed. See 5315(13), T. 10 § 136.
171d	See T. 10 § 1580.
171d-1, 171d-2	Repealed.
171e	T. 10 § 171.
171f	T. 10 §§ 141, 142.
171g	T. 10 § 143.
171h, 171i	Repealed.
171j	T. 10 § 173.
171j-1	Repealed. See T. 10 § 173.
171k	Repealed.
171*l*	Repealed. See Pub. L. 89-554, § 8.
171m	T. 50 § 411.
171m-1	T. 10 § 2211.
171n	T. 50 § 410.
171o	Repealed.
171p, 171q	T. 10 § 1581.
171r	T. 10 § 1582.
171s	T. 10 §§ 3230, 5416, 8230.
171s-1	Omitted. See T. 31 § 700.
171t	T. 10 § 2571.
171u	Repealed.
171v	T. 10 § 1583.
171w	T. 10 § 2385.
171x	See T. 10 § 2662, T. 50 App. § 2285.
171y	Repealed.
171y-1	T. 10 §§ 3205, 5417, 8205.
171z	T. 10 § 2661.
171z-1	T. 10 § 2681.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
171z-2	Omitted. See T. 31 § 700a.
171z-3 to 171z-5	T. 10 §§ 2673—2675.
172	T. 10 § 136.
172a	T. 10 §§ 3014, 5061, 8014.
172b, 172c	T. 10 §§ 2203, 2204.
172d	T. 10 § 2208.
172d-1	T. 10 § 2210.
172e	T. 10 § 2209.
172f	T. 10 § 126.
172g, 172h	T. 10 §§ 2205, 2206.
172i	T. 10 § 2701.
172j	T. 50 § 412.
173	T. 10 § 2451(a).
173a	Repealed.
173b	T. 10 § 2451(b), (c).
173c—173e	T. 10 §§ 2452—2454.
173f—173h	T. 10 § 2455.
173i	T. 10 § 2456.
174	T. 31 § 650a.
174a	T. 37 § 412.
174b	T. 10 § 2666.
174c	Omitted. See T. 50 § 100a.
174d	T. 10 § 2207.
174e	T. 10 § 2387.
174f	Omitted.
174g	Omitted. See T. 31 § 638f.
174h	Omitted.
174i	T. 31 § 700b.
181	T. 10 § 3012.
181-1(a)	T. 10 § 3012(f).
181-1(b)	Omitted.
181-1(c)	T. 10 § 101(5); T. 50 § 409(a).
181-1(d)	T. 10 § 3011.
181-1(e)	T. 10 § 3062(b).
181-2	5317(17).
181-3	T. 10 § 3001.
181-4	T. 10 §§ 3012, 4532.
181-5	T. 10 §§ 3013, 3017.
181a, 182, 182a	See T. 10 § 3013.
183	See T. 10 § 3017.
184	Repealed.
185—187	T. 10 § 3016.
187a, 188, 189	Repealed.
189a	T. 10 §§ 4025, 9025.
189b	Repealed. See 3341.
189c	T. 10 § 2632.
189d	Repealed.
190	T. 10 § 3012.
191	T. 10 § 4831.
191a	T. 10 § 1552.
192, 192a	Repealed.
193	T. 44 §§ 395(e), 397(a)(1), (c).
194	T. 44 §§ 395(e), 397(a)(1), (b), (c).
194a	T. 44 § 397(a)—(c).
195—197	Repealed.
198	T. 10 § 4714.
199	T. 10 §§ 3693, 8693.
200	T. 10 § 1551.
201	See T. 40 §§ 472, 473.
202	T. 10 §§ 4565, 9565.
203—207	Repealed.
207a—207i	Repealed.
208	T. 28 § 2672 et seq.
209	Repealed. See T. 28 § 2672 et seq.
210	T. 28 § 2672 et seq.
211-213	See T. 40 § 481 et seq.
214	Omitted.
215, 216	Repealed.
216a	Repealed.
217	Repealed.
218	T. 10 § 2381.
219	See T. 40 § 487, T. 41 § 20.
219a	Repealed.
219b	See T. 19 § 1202. Revised Tariff Schedules.
220	Repealed.
221	T. 10 §§ 4540, 9540.
222	T. 31 § 649a.
223	Repealed.
224	T. 22 § 276aa.
225	T. 22 § 276bb.
226	T. 22 § 276cc.
227	T. 22 § 276dd.
228	T. 22 § 276ee.
229	See T. 40 § 483(c).
230, 231	See T. 10 § 1581.
232	Repealed. See T. 10 § 1582.
233—233c	See T. 10 § 2601.
234—234f	Repealed.
235	T. 10 § 4531.
235a	T. 10 § 4503.
235b	T. 10 § 174.
235c	T. 10 § 1584.
235d	T. 10 § 2352.
235e	T. 10 §§ 2353, 2357.
235f, 235g	T. 10 §§ 2354, 2355.
235h	T. 10 §§ 174(c), 2356.
241	T. 31 § 1001.
242	T. 31 § 1002.
243	T. 31 § 1003.
244	T. 31 § 1004.
245	T. 31 § 1005.
245a	Repealed. See 5316(28).
246	T. 31 § 1006.
246a	Repealed.
247	T. 31 § 1007.
248	T. 31 § 1008.
248a	T. 31 § 1009.
248b	Repealed.
248c	T. 31 § 1010.
248d	T. 31 § 1011.
248e	T. 31 § 1013.
249, 249a	Repealed.
249b	T. 31 § 1014.
250	T. 31 § 1015.
251	Repealed.
252	T. 31 § 1016.
253	T. 31 § 1017.
254	T. 31 § 1018.
255	T. 31 § 1019.
256	T. 31 § 1020.
257	T. 31 § 1021.
258	T. 31 § 1022.
258a	T. 31 § 1023.
259	T. 31 § 1024.
260	T. 31 § 1025.
261	T. 31 § 1026.
262	T. 31 § 1027.
263	T. 31 § 1028.
264	T. 31 § 1029.
265	T. 31 § 1030.
266	See T. 31 §§ 701—708, 712a.
267—269	Repealed.
270, 271	See T. 31 § 66b.
272—274	Repealed.
275	T. 10 § 1552.
276	See T. 40 § 609.
277	T. 31 § 1031.
281	T. 19 § 2071.
281a	T. 19 § 2072.
281b	T. 19 § 2073.
281c	T. 21 § 163.
281d, 281e	Repealed.
281f	T. 19 § 2072.
281g	T. 19 § 2074.
282	T. 21 § 161.
282a	T. 21 § 162.
282b	T. 21 § 164.
282c	T. 21 § 165.
291	T. 28 §§ 501, 503.
292	T. 28 § 502.
293	See 5314(2). T. 28 § 505.
293a	Repealed.
294	See 5314(1). T. 28 § 504.
295	T. 28 § 506.
295-1	See 5315(19). T. 28 § 506.
295a	See 5315(19).
295b	Repealed. See 5316(26).
296	Repealed.
297	Repealed and omitted. See T. 43 § 1455.
297a	Repealed. See T. 26 § 7801.
298	3101. T. 28 § 543(a).
298a	5108(c)(8).
299	T. 28 § 533.
300	T. 28 §§ 533, 534.
300a	T. 18 §§ 3052, 3107.
300b	T. 31 § 224b.
300c	Repealed. See 5314(45).
300c-1	Repealed. 5315(71).
300d	T. 28 § 536.
300e, 301	Repealed.
302	Repealed. See 5702, 5706.
303, 304	T. 28 §§ 511, 512.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
305	T. 28 § 521, T. 44 § 296a.
306	See 3106. T. 28 § 516.
306a	Repealed.
307	T. 28 § 513.
308	Repealed. See T. 28 §§ 509, 510.
309	T. 28 § 518.
310	T. 28 § 515(a).
311	Repealed. See T. 28 § 510.
311a	T. 28 § 535(a)—(c).
312	T. 28 §§ 503, 507, 508.
313	T. 28 § 514.
314	3106.
315	T. 28 § 515(b).
316	T. 28 § 517.
317	T. 28 §§ 507, 547.
318	T. 28 §§ 509, 547.
319	T. 28 § 523.
320	Repealed.
321	T. 28 § 604.
322	T. 31 § 1010.
323, 324	T. 28 § 507.
325	T. 31 § 1012.
326	T. 31 § 1011.
327	T. 28 § 507.
328	See T. 31 § 1013.
329	T. 28 §§ 507, 547.
330, 331	T. 28 § 507.
332	Repealed. See Fed. Rules Civ. Proc. rule 2.
333	T. 28 § 522.
334—337	Repealed.
338	T. 28 §§ 411, 413.
339	Repealed.
340	T. 28 § 534.
341	T. 28 § 524.
341a	T. 28 § 568.
341b	T. 28 § 526.
341c	See T. 22 § 263a. T. 28 §§ 536, 537.
341d	T. 8 § 1555.
341e	T. 28 § 525.
341f	T. 18 § 4010.
341g	T. 18 § 4011.
341h	T. 42 § 250a.
342	T. 8 § 1551.
342a	Omitted.
342b	T. 8 § 1552.
342b-1	T. 8 § 1553.
342c	T. 8 § 1353a.
342d	T. 8 § 1353b.
342e	T. 8 § 1353d.
342f	Repealed. See T. 8 § 1555.
342g	T. 8 § 1554.
342h, 342i	Repealed.
342j	See T. 8 §§ 1225, 1226.
342k	See T. 8 § 1103.
342*l*	T. 8 § 1557.
361	T. 39 §§ 301, 302.
362	T. 39 § 303.
363, 363a	T. 39 § 305.
364	T. 39 § 307.
364-1(a)	Repealed. See T. 39 §§ 307, 508.
364-1(b)	Repealed.
364a	Repealed.
364b	T. 39 § 308.
365	T. 39 § 3103.
366	T. 39 § 2003.
367	T. 39 § 2010.
368	Repealed.
369	T. 39 §§ 501, 701.
370	T. 39 § 3105.
371	Repealed.
372, 373	T. 39 § 505.
374	T. 39 § 503.
375	T. 39 § 4104.
376	T. 39 § 2205.
377	T. 39 § 2002.
378—381	T. 39 §§ 2101, 2102, 2201 et seq., 2302, 2401, 2402.
382	Repealed.
383, 384	2401.
385, 386	Repealed.
387	See T. 39 § 2304.
388	Repealed.
389	T. 39 § 6216.
390, 391	Repealed.
392	T. 39 § 2409.
393	T. 39 § 2101.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
411	T. 10 § 5031(a).
411a	T. 10 §§ 5012, 5013, 5402.
411a(a)	T. 10 § 101(5); T. 50 § 409(b).
411a(b)	T. 10 § 5012.
411a(c)	T. 10 §§ 5013, 5402(a).
411b	See 5313(18).
412	T. 10 § 5031(b).
412a	T. 10 §§ 6952, 7202—7211, 7214, 7215, 7218, 7301, 7472, 7478, 7571, 7572, 7576, 7578, 7579.
412b	T. 10 § 2381.
413	T. 10 § 5031(c).
414	T. 44 §§ 395(e), 397(a)(1), (c).
415, 415a	Repealed.
415b	T. 10 § 7473.
415c	T. 10 § 7472.
415d	T. 10 § 2632.
415e	Repealed.
416	See 4501—4506.
417	Repealed.
418	T. 10 § 7216.
419	T. 10 § 7221.
419a	T. 10 § 7220.
419b	T. 10 § 7222.
419c	T. 10 § 7202.
420, 420a, 421	T. 10 § 5034.
421a	Repealed.
421a-1	T. 10 §§ 5034, 5036.
421b	T. 10 §§ 5033, 5036.
421c	T. 10 § 7211.
421d	T. 10 § 7204.
421e	T. 10 §§ 7203, 7205.
421f	T. 10 §§ 7207—7209.
421g	T. 10 §§ 6081, 7204, 7205, 7211, 7214, 7218, 7571, 7572, 7576, 7579.
422, 422a	See T. 10 §§ 5081, 5082.
423	See T. 10 § 5036.
423a	T. 10 §§ 5081, 5082, 5111.
423b	T. 10 § 5081.
423c—423f	T. 10 §§ 5085—5088.
423g, 423h	T. 10 §§ 5111, 5112.
423i	T. 10 § 5082.
423j	T. 10 § 5036.
423k	T. 10 §§ 5085, 5086, 5088, 5111.
424	T. 10 § 5081.
425	Repealed.
425a	T. 10 §§ 5083, 5133, 5148, 5201.
426	Repealed.
426a	See T. 10 §§ 5086, 5087.
427	T. 10 § 5081(c).
427a	T. 10 § 5084.
428	T. 10 § 5148.
429	T. 10 §§ 5131, 5132.
430	T. 10 § 5132.
430a	T. 10 § 7303.
430b	T. 10 § 5132.
431	T. 10 § 5132(d).
432	T. 10 §§ 5137, 5141, 5146, 5147.
432a	T. 10 § 5135.
433	T. 10 § 5147.
434	See T. 10 § 5141, former § 5144.
435	T. 10 § 5145(a).
436	Repealed.
437	T. 10 § 5146.
438	T. 10 § 5137.
439	See T. 10 § 5133, former § 5136.
440	T. 10 §§ 5137(a), 5146(a).
441	T. 10 §§ 5133, 5148.
441a	T. 10 § 5133.
442, 443	Repealed.
444	T. 10 § 5149.
445	T. 10 §§ 5135, 5147.
446	T. 10 §§ 5135, 5141.
447	See T. 10 § 5135, former § 5144.
448	T. 10 § 5145.
448a	T. 10 § 5135.
448b	T. 10 § 5145(d).
449	T. 10 §§ 5135, 5146.
450	Repealed.
451	See T. 10 § 5137(b).
452	See T. 10 § 5135, former §§ 5134, 5136. See T. 37 § 202.
453	See T. 10 § 5149, T. 37 § 202.
454	See T. 10 § 2701, T. 40 § 486(b).
455	T. 10 § 5132(b).
456	Repealed.
456a	T. 10 § 1552.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
456b, 456c	T. 10 § 5138.
456d	T. 10 § 6029.
457	T. 10 § 7391.
457a	Repealed.
457b	Repealed. See T. 10 § 7391.
458	T. 10 §§ 7392, 7394.
458a	T. 10 § 7393.
459	T. 10 § 7394.
460, 460a	Repealed.
461	T. 10 § 7393(b).
462	Repealed.
463	T. 10 § 7395(c).
464	T. 10 § 7396.
465	Repealed.
466	T. 10 § 7217.
467, 468, 468a, 469, 470	Repealed.
471	T. 10 §§ 5063, 5064.
475	T. 10 §§ 5150, 5151. See T. 37 § 202.
475a	T. 10 § 5150. See T. 37 § 202.
475b	T. 10 § 5150(d), (e).
475c	T. 10 § 5153.
475d	T. 10 §§ 5151, 5152.
475e	T. 10 § 7522.
475f	Repealed.
475g	T. 10 § 174.
475h	T. 10 § 1584.
475i	T. 10 § 2352.
475j	T. 10 §§ 2353, 2357.
475k, 475*l*	T. 10 §§ 2354, 2355.
475m	T. 10 §§ 174(c), 2356.
476, 476a	See T. 10 § 1581.
476b	See T. 10 § 1582.
477—477c	See T. 10 § 2601.
481	T. 43 § 1451.
481a	T. 43 § 1452.
482	T. 43 § 1453.
482a	Repealed. See 5315(18).
483	T. 43 § 1454.
483-1	Repealed. See 5316(25).
483-2	See T. 42 § 2521 note.
483a	T. 43 § 1455.
484	T. 43 § 1456.
485	T. 43 § 1457.
486	T. 43 § 1458.
487	T. 43 § 1459.
488	T. 43 § 1460.
489	T. 43 § 1461.
490	See T. 28 § 1733.
491	T. 43 § 1462.
492	T. 43 § 1463.
493	T. 43 § 1464.
494	See T. 40 § 1471 et seq.
495	T. 43 § 1465.
496	Repealed. See T. 41 §§ 5, 252.
496a	Repealed. See T. 40 § 483.
497	Repealed.
498	T. 43 § 1466.
499	Repealed.
500	See 4501—4506.
501	Omitted.
502	T. 43 § 1467.
503	T. 43 § 1468.
511	T. 7 § 2201.
512	T. 7 § 2202.
513	T. 7 § 2203.
514	T. 7 § 2204.
514a	T. 7 § 2210.
514b	T. 7 § 2211.
514c	Repealed.
514d (1st, 3d pars.)	Repealed.
514d (2d par.)	302(b)(1).
515	T. 7 § 2205.
516	T. 7 § 2206.
516a	T. 7 § 450c.
516b (less 3d sentence)	T. 7 § 450d.
516b (3d sentence)	5109(a).
516c	T. 7 § 450e.
516d	T. 7 § 450f.
516e	T. 7 § 450g.
517	T. 7 § 2212.
517a	Repealed. See 5315(11).
517b	T. 7 § 2213.
517c	Repealed.
518	Omitted. See T. 7 § 2214.
518a	T. 7 § 2214.
519	T. 7 § 2215.
520	T. 7 § 2216.
520a	T. 7 § 2232.
521	T. 7 § 2217.
522	T. 7 § 2218.
523	Repealed. See T. 40 §§ 1, 19.
524—527	Repealed.
528	T. 7 § 2219.
529	See 5525.
530	T. 7 § 2221.
531	T. 7 § 2222.
532	T. 7 § 2223.
533	T. 7 § 2224.
534—537	Repealed. See 6301—6304, 6307.
538	T. 7 § 2227.
539	Repealed. See 5724.
540	Repealed. See 5702.
541	Repealed. See 5707.
541a	Repealed. See 5704.
541b	Repealed. See 5703.
541c	T. 7 § 2233.
541d	T. 7 § 2228.
541e	T. 7 § 2229.
542	T. 7 § 2234.
542-1	T. 7 § 2235.
542-2	T. 7 § 2236.
542a	T. 7 § 2237.
542b	T. 7 § 2238.
542c	T. 7 § 2239.
543	T. 7 § 2240.
543a	T. 7 § 2230.
543b	T. 7 § 2231.
544	See T. 44 §§ 366—380.
545, 546	See T. 40 § 481 et seq.
547	Repealed.
548	See T. 40 § 481 et seq.
549	T. 7 § 2241.
550	Repealed.
551	T. 7 § 2242.
552	T. 7 § 2243.
552a	T. 7 § 2244.
553	T. 7 § 2245.
554	T. 7 § 2246.
555	T. 7 § 2247.
556, 556a	Repealed.
556b	T. 7 § 2248.
557	T. 7 § 2207.
557a	T. 7 § 2208.
558	T. 7 § 2209.
558a	Repealed.
559—562	Repealed.
563	T. 7 § 450b.
564	T. 7 § 2220.
564a	T. 7 § 2249.
565	Repealed.
565a	T. 7 § 2250.
565b	T. 7 § 2250a.
566	T. 7 § 2251.
567	T. 7 § 2253.
568	Repealed.
568a	T. 7 § 2254.
568b	Repealed. See T. 7 § 2257.
569	T. 7 § 2252.
570	T. 7 § 2255.
571	T. 7 § 2256.
572	T. 7 § 2257.
573	T. 7 § 2258.
574	T. 7 § 2225.
574a	T. 7 § 2226.
575	T. 7 § 2259.
576	T. 7 § 2260.
577	T. 7 § 2261.
578	T. 7 § 2262.
579	T. 7 § 2263.
591	T. 15 § 1501.
591a	T. 15 § 1502.
591b	T. 15 § 1503.
592	T. 15 § 1504.
592a	T. 15 § 1505.
592a-1, 592a-2	Repealed.
592a-3	T. 15 § 1506.
592a-4	T. 15 § 1507.
592b	T. 15 § 1508.
592c, 592d	Repealed.
593	Repealed. See T. 15 § 1509.
593a	T. 15 § 1509.
594	T. 15 § 1510.
595	See 5525.
596	T. 15 § 1512.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
596a	T. 15 § 1514.
597	T. 15 § 1511.
597a, 597a-1, 597b—597d	Repealed.
598	T. 15 § 1515.
599	T. 15 § 1513.
600	Repealed.
600a	Repealed. See 5342.
600b	Repealed.
601	T. 15 § 1516.
601a—601d	T. 15 §§ 189, 189a, 192, 192a.
602	T. 15 § 1517.
603	T. 15 § 1518.
604	T. 15 § 1519.
605	Repealed.
606	T. 15 § 1520.
606a	Repealed. See T. 15 §§ 1151—1157.
607	T. 15 § 1521.
608	See T. 40 §§ 483, 484.
608a	T. 15 § 1522.
608b	T. 15 § 1523.
608c	T. 15 § 1524.
611	T. 29 § 551.
611a	T. 29 § 552.
611b	T. 29 § 553.
611c	Repealed. See 5316(27). Omitted in part.
612	See T. 29 §§ 552, 553.
613	See T. 29 § 553.
613a	T. 29 § 554.
613b	T. 29 § 555.
614	Repealed.
615	T. 29 § 556.
616	T. 29 § 557.
617	T. 29 § 558.
618	T. 29 § 559.
619	Repealed. See T. 29 § 172.
620	T. 29 § 560.
621	T. 29 § 561.
622	T. 29 § 562.
622a	T. 29 § 563.
623	T. 42 § 3501.
623a	T. 42 § 3508.
623b	T. 42 § 3503.
623c	T. 42 § 3504.
623d	T. 42 § 3505.
623e	T. 42 § 3507.
623f	T. 42 § 3506.
623g	T. 42 § 3502.
623h	T. 42 § 3501a.
623i	Omitted.
624	T. 42, § 3531.
624a	T. 42, § 3532.
624b	T. 42, § 3533.
624c	T. 42, § 3534.
624d	T. 42, § 3535.
624e	T. 42, § 3536.
624f	T. 42, § 3537.
626	T. 10 §§ 8011—8013, 8033.
626(c)	Repealed. See T. 50 § 409.
626-1 and 626-2	T. 10 §§ 8012, 9532.
626(a)	T. 10 § 8012(a).
626(b)	Repealed.
626(c)	T. 10 § 101(5); T. 50 § 409(c).
626(d)	T. 10 § 8013(a).
626(e)	T. 10 § 8012(e).
626(f)	Repealed.
626(g)	T. 10 § 8011.
626a	See 5313(16).
626b	See 5315(7), (14).
626c(a), (b), (d)—(f)	T. 10 §§ 743, 8062.
626c(c)	Repealed.
626c-1 to 626c-3	Repealed.
626d	Repealed.
626e	See T. 19 § 1202, Revised Tariff Schedules.
626f	See T. 10 § 2572.
626g—626j	See T. 10 § 2601.
626k	Repealed.
626*l*	T. 10 § 9441(a), (b).
626m	T. 10 § 9441(c).
626n	T. 10 § 2632.
626*o*	Repealed.
626p	T. 10 § 9774.
626q, 626r	T. 10 § 9301.
626s, 626s-1, 626s-2	T. 10 § 2481.
626s-3	T. 10 § 2667.
626s-4, 626s-5	Repealed.
626s-6	T. 10 § 2667.
626t, 626u	T. 10 § 1581.
626v—626x	See T. 40 § 471 et seq.
626y	Repealed.
627	Repealed.
627a	T. 10 §§ 8208, 8215.
627b	T. 10 §§ 8071, 8208, 8297, 8299, 8305, 8504, 8685, 8888, 8915, 8916, 8927, 8962, 8991.
627c	Repealed.
627d	T. 10 § 8256.
627e	T. 10 § 8685.
627f	T. 10 §§ 8549, 8580, 8818.
627g, 627h	Repealed.
627i	See T. 10 § 591.
627j—627*l*	T. 10 §§ 801 et seq., 8072.
628	T. 10 § 9531.
628a	T. 10 § 9503.
628b	T. 10 § 174.
628c	T. 10 § 1584.
628d	T. 10 § 2352.
628e	T. 10 §§ 2353, 2357.
628f, 628g	T. 10 §§ 2354, 2355.
628h	T. 10 §§ 174(c), 2356.
630	T. 40 § 751.
630a	T. 40 § 752.
630b	T. 40 § 753.
630c	Repealed.
630d	T. 40 § 754.
630e	T. 40 § 755.
630f	Repealed.
630g	T. 40 § 756.
630g-1	T. 40 § 757.
630g-2	T. 40 § 759.
630h	T. 40 § 758.
630i	Omitted.
630j	Repealed.
631	3301(1)—(3), 7301.
631a	2102(a)(1), Omitted in part.
631b(a)	Omitted.
631b(b), (c)	3304(c).
632 (1st par.)	1101.
632 (2d par.) (cls. 1—3)	1102(a)—(c).
632 (3d par.)	1102(b), (d).
632 (4th par.)	5706.
632 (5th par.)	1103(a)—(d).
633(1)	1301, 3302.
633(2)1	3304(a)(1).
633(2)2	3318(a).
633(2)3	3306(a)(1), (b).
633(2)4	3321.
633(2)5	7321.
633(2)6	7152, 7322.
633(2)7	1302(a), 3304(a)(2).
633(2)8	2951, 3302.
633(2)9	7153.
633(3)	1302(a), 1307.
633(4)	1303.
633(5)	1308(a)(1).
633a—633e	Repealed.
634	1306.
635 (1st sentence, pt.)	1104(a)(1).
635 (2d—4th sentences)	Repealed.
635 (5th sentence)	1105(a).
635 (6th sentence)	1105(a), 3305(a).
635 (7th sentence)	3304(d).
636	Repealed.
637	T. 18 §§ 1, 371, 1917.
638	2102(a), 3304(b), 3361.
638a	Repealed. See 3307, 3322.
638b	3307, 3322.
639	Repealed. See 3101.
640	7352.
641	3319(a).
642	3303.
642a	2953.
643	See 3306(a)(1), (b).
644	See 3301(2), 3305(a), 3306, 3319(a).
645	Repealed. See 1302, 3302, 3304.
645a	Repealed. See Pub. L. 89-554, § 8.
645b	Repealed.
645c—645e	Omitted.
646, 647	Repealed. See 3502, 4301—4308, 7512.
648	See 3502, 4301—4308, 7512.
649—651b	Repealed. See 3502, 4301-4308, 7512.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
652(a)	7501(a)—(c).
652(b)(1)—(3)	Repealed. See 5595.
652(c)	7101.
652(d)	7102.
652a par. 1(A)—(C)	5596(a)(1).
652a par. 1(D), (E)	5596(a)(2), (3).
652a par. 1(F)	5596(a)(1).
652a par. 1(G), (H)	5596(a)(4), (5).
652b	5596(b).
652c	5596(c).
653	See 7532.
654	Repealed.
655	1304(b)—(d).
656	1304(g).
657	1304(e).
658	Omitted.
659	3327.
661	Repealed.
662	See 5102(a)(3)—(5).
663	See 3324, 3342, 5107, 5108, 5110—5115, 5334, 5338, 7154(c).
663a, 663b	Repealed.
664	See 5107, 5110, 7154(b).
665	See 305, 5102, 5103, 5341, 5342. See T. 2 § 60e-2a.
666	See 5333(a), 5334(a), (b).
667	See 5335, 5336(c).
668	Repealed.
669, 669a	See 4301-4308.
670	See 5334.
671, 672	Repealed.
672a—672c	See 5332.
673	See 5104, 5332.
673a	See 305, 5102(c), 5341, 5342.
673b	5112.
673c (1st par., less provisos)	Repealed. See 5341.
673c (1st proviso)	6102.
673c (2d proviso)	5544(a) (2d sentence), (a)(1).
673c (3d proviso)	5544(a) (last sentence).
673c (2d par.)	Repealed. See 5341.
674—678b	Repealed.
679	Omitted.
680—684	Repealed.
691	Repealed. See 8336(a)—(d).
691a	Repealed. See 8336.
692	Repealed. See 8331, 8332(b), (i), 8347(g)—(k).
692a, 692b	Repealed. See 3323(b), 8335, 8344.
692c, 692d	See 8335.
693	Repealed. See former 692, 1227a.
693-1	Repealed. See 8331 et seq.
693-2	Repealed. See 8339(i), 8341(b)—(f).
693a, 693b	Repealed. See former 692.
693c	Repealed. See 8331(1)(C).
693d	Repealed. See 2107(1)—(7).
694	Repealed. See 2102, 2107, 8331, 8341(a).
694a	Repealed. See 8331(3)(A), (B), (i), (ii), 8339(a), (b), (e)(1), (f).
695	Repealed.
695a	Repealed. See 8332, 8333(a), (b).
696	Repealed.
696a	Repealed. See 8337.
697	Repealed. See former 692.
697a	Repealed.
698	Repealed. See 8331(3)(A), (B), (i), (ii), 8339(a), (b), (e)(1), (f), (g), (i)—(k), 8345(a).
698a	Repealed. See 8339.
698b	Repealed. See 8332, 8333(a), (b).
699	Repealed. See 2102, 2107, 8331, 8339, 8341(a), 8345.
699a	Repealed. See 8334(c)—(g).
700	Repealed. See former 699.
700a	Repealed. See 8334, 8349(b).
701	Repealed. See former 699.
701a	Repealed. See 8348(c).
702	Repealed. See former 699.
702a	Repealed. See 8342.
703	Repealed. See former 699.
703a	Repealed. See 1308(c), 8345, 8347.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
704	Repealed. See former 699.
704a	Repealed.
705	Repealed. See former 699.
705a	Repealed. See 1308(c), 8347.
706	Repealed. See former 699.
706a	Repealed. See 8347(f).
707	Repealed. See 8332, 8333(a), (b).
707a	Repealed. See 8347(a), (f).
708	Repealed. See 8332, 8333(a), (b).
708a	Repealed. See 8346(a).
709	Repealed. See 8347(a).
710	Repealed. See 8337(a), (b).
711	Repealed. See 8337(c), (d).
712	Repealed. See 8347(e).
713	Repealed. See 8337(e).
714	Repealed. See 8337(f), (g).
715	Repealed. See 3323(b), 8335, 8344.
715a—715d	See 8335.
716	Repealed. See 8345(d), 8347(b).
717	Repealed. See 8347(b).
718	Repealed. See 8345(b).
718a	Repealed. See 8331(9).
719	Repealed. See 8334.
719-1	Repealed. See 8343.
719a, 719b	Repealed. See 8334.
720	Repealed. See 8348(c).
721	Repealed. See 8348(b).
722	Repealed. See 8334(b).
723	Repealed.
724	Repealed. See 8342.
725	Repealed. See 8345.
726, 727	Repealed. See 1308(c), 8347.
728	Repealed. See 1308(c).
729	Repealed. See 8346(c).
729a	Repealed. See 8346(b).
730	Repealed. See 8348(f).
731, 732	Repealed. See 8347(f).
733, 734	Repealed. See 8334(d), 8338.
735, 736	See 8334(d), 8338.
736a	See 8335.
736b	Repealed. See 8334(c)—(g).
736c	See 8339.
737	Repealed. See 3323(b), 8335, 8344.
738, 739	Repealed.
739a, 739b	See 8339.
740	Repealed. See 8301 et seq.
740a	Repealed.
740b—740i	See former 2281—2288.
745—745r	See 8301 et seq.
751(a)	8102(a)(1)—(3).
751(b) (1st sentence)	8102(b) (1st sentence).
751(b) (2d sentence, cls. (1), (2)).	8102(b) (2d sentence, cl. (1)).
751(b) (2d sentence, cl. (3))	8102(b) (2d sentence, cl. (2)).
751(b) (3d sentence)	8102(b) (3d sentence).
752	8117(1)-(3).
753	8105.
754(a)(1)	8106(a).
754(a)(2)	8106(b).
754(b)	8106(c)(1), (2).
755(a) (intro. text)	8107(a)(1)—(3).
755(a) (cls. (1)—(21))	8107(c) (cls. (1)—(21)).
755(b)	8107(b)(1), (2)(A), (B), (last sentence).
755(c) (1st sentence)	8108 (1st sentence, cls. (1), (2)).
755(c) (2d sentence)	8108 (2d sentence).
755(d)(1)(A)—(E)	8109(a)(1)(A)—(C), (D)(i)—(v).
755(d)(2)	8109(b).
755(d)(3)(A)	8109(c).
755(d)(3)(B)	8109(d).
756(a)(1)	8110(b), (2).
756(a)(2)(A)(i)	8110(a)(1)(A), (B).
756(a)(2)(A)(ii)	8110(a)(1)(C).
756(a)(2)(B)	8110(a)(2).
756(a)(2)(C)(i),(ii)	8110(a)(3)(A), (B).
756(a)(2)(C) (last sentence)	8110(a) (last sentence).
756(a)(2)(D)	8110(a)(4).
756(b)(1)	8111(a).
756(b)(2)	8111(b).
756(c)	8112.
756(d)(1) (1st sentence)	8113(a).
756(d)(1) (2d sentence)	8113(b).
756(d)(2)	8113(c).
756a	Repealed.

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
757(a) (1st sentence, less 2d proviso).	8116(a).
757(a) (1st sentence, 2d proviso, 2d sentence).	8116(b).
757(b)	8116(c).
758	8118.
759(a) (1st sentence)	8103(a) (1st sentence, 2d sentence, cls. (1), (2)).
759(a) (2d sentence)	8103(a) (2d sentence, cl. (3)).
759(a) (3d, 4th sentences)	8103(a) (3d, 4th sentences).
759(a) (5th, 6th sentences)	8103(b).
759(a) (7th sentence)	Repealed.
759(b)	8104.
759(c)	3315a.
760(A)	8133(a)(1), (b)(1).
760(B)	8101(11), 8133(a)(1), (b)(2).
760(C)	8133(a)(2), (b)(3).
760(D)	8133(a)(3), (b)(3).
760(E) (1st, 2d pars.)	8133(a)(4)(A)—(C), sentence.
760(F) (1st, 2d pars.)	8133(a)(5)(A)—(C), sentence.
760(G)	8133(b)(3), (4) (last sentence).
760(H)	8101(6)—(10).
760(I)—(K)	8133(c)—(e).
760(L)	T. 18 § 1921.
760(M)	8101(17).
761 (1st sentence)	8134(a).
761 (2d sentence)	8134(b)(1)(A), (B), (2).
761 (3d sentence)	8134(b) (last sentence).
762(a)	8114(b).
762(b) (1st sentence)	8114(e).
762(b) (2d sentence)	8114(e)(1), (2).
762(b) (3d sentence)	8114(a)(1).
762(c)(1)	8114(c).
762(c)(2)(A)	8114(d)(1)(A), (B).
762(c)(2)(B)—(D)	8114(d)(2)—(4).
762(d)	8114(a)(2).
763(a)	8115(b).
763(b)	8115(a), (a)(1)—(7).
764(a) (1st sentence)	8135(a) (1st sentence, cls. (1)—(3)).
764(a) (2d, 3d sentences)	8135(a) (2d, 3d sentences).
764(b)	8135(b).
765 (1st sentence)	8119(a) (1st sentence, 2d sentence, cls. (1)—(3)).
765 (2d sentence)	8119(a) (2d sentence, cl. (2)).
766	8119(a) (2d sentence, cls. (4)—(7)).
767	8119(b) (1st sentence, 2d sentence, cl. (1)).
768 (1st sentence)	8121 (1st sentence, 2d sentence, cl. (1)).
768 (2d sentence)	8121 (2d sentence, cl. (2)).
769 (1st sentence)	8121 (2d sentence, cls. (3), (4)).
769 (2d sentence)	8121 (2d sentence, cls. (5), (6)).
769 (3d sentence)	8121 (3d sentence).
770(a) (1st sentence)	8122(a)(2).
770(a) (2d sentence)	8122(a)(1).
770(a) (3d sentence)	8122(b).
770(a) (4th sentence)	8122(a) (last sentence).
770(a) (5th sentence, items (1), (2)).	8122(c)(1), (2)(A), (B).
770(a) (5th sentence, last cl.)	8119(b)(2).
770(b)	8122(d).
771 (1st par., 1st, 2d sentences)	8123(a).
771 (1st par., 3d, 4th sentences).	8123(d).
771 (2d par.)	8123(b).
772	8123(a).
773(a)	8123(c).
773(b)	8127(a), (b), T. 18 §§ 1, 292.
773(c)	8125.
774(a)	8120(1), (2).
774(b)	T. 18 §§ 1, 1922.
775	8130.
776 (1st par., 1st sentence)	8131(a)(1), (2).
776 (1st par., 2d sentence)	8131(a) (last sentence).
776 (2d, 3d pars.)	8131(b), (c).
777 (intro. text, par. (A), 1st sentence).	8132 (1st sentence).
777 (par. (A), 2d sentence)	8132 (2d sentence).
777 (par. (B))	8132 (3d, 4th sentences).
778 (1st sentence)	8145 (1st sentence).
778 (2d sentence)	8145 (cl. (2)).
779	8120(3).
780	8126(1)—(4).
781	8145(1). See 2102, 3301—3327.
782	Repealed.
783	8145 (1st sentence), 8149 (1st, 3d sentences).
784(a)	8148(1)—(3).
784(b)	7902(b).
784(c) (1st sentence)	7902(b), (c)(1), (2), (d).
784(c) (2d sentence)	7902(e)(1), (2).
785	8147(a).
786(a) (1st sentence)	8124(a)(1), (2).
786(a) (2d sentence)	See 8147(a).
786(b)	8124(b).
787 (1st sentence)	8128(a)(1), (2).
787 (2d sentence)	See 8128(b).
787 (3d sentence)	Repealed.
788	8129.
789	T. 18 § 1920.
790(a)	See T. 1 § 1.
790(b)(1)	8101(1)(A), (i)—(iii).
790(b)(2), (3)	8101(1)(B), (C).
790(c)	Repealed.
790(d)	7901(e), 8101(2).
790(e)—(g)	8101(3)—(5).
790(h)	8101(12).
790(i)	Repealed.
790(j)(1)—(5)	8101(13)(A)—(E).
790(k)(1)—(3)	8101(14)(A)—(C).
790(*l*), (m)	8101(15), (16).
791	8131(d).
791-1	Repealed.
791-2	Repealed.
791-3	Repealed.
791-4(a)	Repealed.
791-4(b)	8150(a).
791a	Repealed.
791b	Omitted.
792	See 8146(a)(2), (b).
793 (1st par.)	8146(a)(1), (2), (b) (1st sentence).
793 (2d par., 1st sentence).	8146(c).
793 (2d par., 2d sentence).	8138(b).
793 (2d par., 3d sentence).	8146(b) (2d sentence).
793 (2d par., 4th sentence).	8146(e).
793 (3d par.)	8146(d).
793 (4th par., 1st sentence).	8138(a).
793 (4th par., 2d sentence).	8136.
793 (5th par., 1st sentence).	8137(a).
793 (5th par., 2d sentence).	8137(b)(1), (2).
793 (5th par., 3d sentence).	8137(b) (last sentence).
793 (5th par., 4th through 6th sentences).	8137(c)—(e).
793 (5th par., 7th sentence).	8128(b).
793 (5th par., 8th sentence).	Repealed.
793a(a), (b)	8146a(a), (b).
793a(c)(1), (2)	8101(18), (19).
794	7902(a), 8101(1)(D), (iv), 8139. See T. 31 § 1 et seq.
795	Repealed.
796	Repealed.
797	Repealed.
797a	Repealed.
798	Repealed.
799	Repealed.
800	Repealed.
801	See 8102(b).
802(a)(1), (2)	8140(a)(1), (2).
802(a) (last two sentences).	8140(b) (1st two sentences).
802(b) (1st sentence)	8140(c).
802(b) (2d sentence)	Repealed.
802(c)	8140(b) (3d sentence).
802(d)	8140(f).
802(e)	8140(d), Repealed in part.
802(f)	8140(e).
803(a)—(c)	8141(a)—(c).
803(d)	Repealed.
803a	8150(b).
821	Repealed.
822	See 102, 105, 2106, 5701.
823	See 2105, 5701.
823a	5727(a). See 5727(b)—(e), T. 10 § 2634.
824—826	See 5702(a).
827	See 5707.
828	See 5705(1)—(3).
829	See 5708(3), (4). Repealed in part.
830	See 5708(1), (2).
831	See 2105, 5701.
832	Repealed.
833	Repealed.
834	Repealed.
835(1)	5701(1).

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
835(1)(A)	102, 105, 5701(1)(A), (B), (E), (5).
835(1)(B)	5701(1)(C), (ii), (iii).
835(1)(C)	5701(1)(D).
835(2), (3)	5701(3), (4).
835(4)	2106.
836 (less provisos)	2105, 5701(2), (4), 5702(a), (d).
836 (1st proviso)	5702(b).
836 (2d proviso)	5702(c), 5707.
837 (1st sentence)	2105, 5701(2), 5704(a), 5707.
837 (2d sentence)	5704(b)(1)—(3).
838	5705(1)—(3).
839	5706.
840	5707 (1st, 2d sentences).
841	5708(1), (2).
842(a) (1st sentence)	5708(3), (4). Repealed in part.
842(a) (proviso), (b)	Repealed.
851 (cls. (a)—(d))	1302(b), (c).
851(1)	2108(2), (3)(B).
851(2)	2108(3)(D).
851(3)	2108(3)(C).
851(4)	2108(1)(A), (3)(A).
851(5)	2108(3)(E), (F).
851(6)	2108(1)(A), (3)(A).
851(7)	2108(1)(B).
852	3309, 3310.
853	3311(1), (2).
854(1st, 2d sentences)	3312(1), (2), 3351(1), (2), 3363 (1), (2), 3504(1), (2).
854 (3d, 4th sentences)	3308.
855	3306(a)(2), 3319(b).
856	3313.
857 (1st sentence)	3317(a).
857 (2d sentence)	3318(a).
857 (2d sentence, 1st proviso)	3318(b).
857 (2d sentence, 2d proviso)	3317(b).
857 (3d sentence)	3364.
858	3320.
859	3305(b).
860	1302(c).
861(a)	3502(a)(1)—(4).
861(a) (1st proviso)	3502(a)(A).
861(a) (2d proviso)	3502(b).
861(a) (3d proviso)	3503(a), (b).
861(b)(1)—(3)	3501(a)(3)(A)—(C).
861(c)	3502(a)(B)(i), (ii).
862	3316.
863 (less provisos)	7512(a), (b), 7701.
863 (1st proviso)	7701.
863 (2d proviso)	3315(b).
864	3315(a), 3318(c).
865	3314.
866	Repealed.
867	Repealed. See Pub. L. 89-554, § 8.
868	1302(b), 7701.
869	3316, 3320, 3351 (last sentence).
901(a)(1)	5541(1)(A), (B), (2)(A), (B).
901(a)(2)	5541(2)(C).
901(b)	Repealed.
901(c)	T. 2 § 60e-2(a). Repealed in part.
901(d)	Repealed. See 6101(d).
901(e)	104(2), 105, 5541(1)(A).
902(a)(1)	T. 2 § 60e—2(b).
902(a)(2)—(5)	5541(2)(i)—(iv).
902(a)(6)	5351(2), 5541(2)(v).
902(a) (last sentence)	T. 2 § 60e—2(b).
902(b)(1), (2)	5541(2)(vi), (vii).
902(b)(3)	Repealed.
902(b)(4), (5)	5541(2)(viii), (ix).
902(b)(6)	5541(2)(iv).
902(b)(7)	5541(2)(x).
902(c), (d)	5541(2)(xi), (xii).
911	5542(a).
912	5543.
912a	5542(b)(1).
912b(1), (2)	5542(b)(2)(A), (B).
912b (last sentence)	6101(b)(2).
913	5544(a) (1st sentence), (a)(2), (3).
914	5506.
921(a), (b)	5545(a), (b).
921a	5546(a).
922(a)	5546(b).
922(b)	5446(c), (e).
922(c)	5446(d).
926	5545(c).
931	T. 2 § 60e-3.
932	T. 2 § 60e-4.
932a	T. 2 § 60e-5.
932b	T. 2 § 60e-6.
932c(a)-(c)	T. 2 § 60e-7.
932c(d)	8331(3)(B).
932d(a)-(c)	T. 2 § 60e-8(a)—(c).
932d(d)	8331(3)(B).
932d(e)	Repealed.
932d(f)	T. 2 § 60e-8(d).
932e(a)—(e)	T. 2 § 60e-9.
932e(f)	8331(3)(B).
932f(a)—(d)	T. 2 § 60e-10(a)—(d).
932f(e)	8331(3)(B).
932f(f)	T. 2 § 60e-10(e).
932f(g)	Repealed.
932g(a)—(c)	T. 2 § 60e-11(a)—(c).
932g(d)	8331(3)(B).
932g(e)	T. 2 § 60e-11(d).
932h(a), (b)	T. 2 § 60e-12(a), (b).
932h(c)	8331(3)(B)(ii).
932h(d)	T. 2 § 60e-12(c).
932i(a), (b)	T. 2 § 60e-13(a), (b).
932i(c)	8331(3)(B)(ii).
932i(d), (e)	T. 2 § 60e-13(c), (d).
933	5544(b), T. 2 § 60e—2b.
933a	T. 31 § 46a.
934	Repealed. See T. 28 § 604, 604 note.
935(a)	Repealed. See T. 28 § 604, 604 note.
935(b)	Repealed. 8331(3)(B).
941	5549.
942	Repealed.
942a	Repealed.
942b	Repealed.
943	5547.
943a	Repealed. See 5547.
944(a)(1)	6101(a)(2).
944(a)(2)(A)—(F)	6101(a)(3)(A)—(F).
944(a)(3)	6101(a)(4).
944(b)	5504(a), (a)(1), (3), (a)(A).
944(c)(1)	5504(b).
944(c)(2)(A)—(C)	5504(b)(1)—(3).
944(c)(3)	5504(b) (penult. sentence).
944(d)	5504(a)(2), (b)(C), 6101(c).
945	5504(c), 5548, 6101(e).
946	5342(b). See 5342(a).
947—954	Repealed.
955	T. 2 § 60e—4a.
956	Repealed. See 5335(c), 5336(b).
957	Repealed. See 5547.
958	Repealed.
1001(a)	551(1)(A)—(D), 701(b)(1) (A)—(D).
1001(a) 2d sentence	Repealed.
1001(a)(1)—(3)	551(1)(E)—(G), 701(b)(1) (E)—(G).
1001(a)(4)	551(1)(H), 701(b)(1)(H).
1001(b) 1st sentence	551(2), 701(b)(2).
1001(b) 2d sentence	551(3).
1001(c) 1st sentence	551(4), 701(b)(2).
1001(c) 2d sentence	551(5).
1001(d) 1st sentence	551(6), 701(b)(2).
1001(d) 2d sentence	551(7).
1001(e) 1st sentence	551(8), 701(b)(2).
1001(e) 2d sentence	551(9).
1001(f)(1)—(7) 1st sentence	551(10)(A)—(G), 701(b)(2).
1001(f)(1)—(3) 2d sentence.	551(11)(A)—(C), 701(b)(2).
1001(g) 1st sentence	551(12).
1001(g) 2d sentence	551(13), 701(b)(2).
1002(a)—(d)	552(a)(1)—(4).
1002(e), (f)	552(b), (c).
1002(g)	See 551(2).
1003 (intro. cl.) (1), (2)	553(a)(1), (2).
1003(a)(1)—(3)	553(b)(1)—(3), (A), (B).
1003(b)	553(c).
1003(c)	553(d)(1)—(3).
1003(d)	553(e).
1004 (intro. text)	554(a)(1)—(6).
1004(a), (b)	554(b), (c).
1004(c)	554(d)(1), (2)(A)—(C).
1004(d)	554(e).
1005 (Intro. cl.)	555(a).
1005(a)—(d)	555(b)—(e).
1006 (intro. cl.)	556(a).
1006(a)—(d)	556(b)—(e).

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
1007 (intro. cl.)	557(a).
1007(a)	557(b).
1007(b)(1)—(3), (1), (2)	557(c)(1)—(3), (A), (B).
1008 (intro. cl.)	558(a).
1008(a)	558(b).
1008(b)	558(c)(1), (2).
1009 (intro. cl.) (1), (2)	701(a)(1), (2), (b)(1)(A)—(H), (2).
1009(a)—(e)	702—706.
1010 (1st sentence)	3105.
1010 (2d sentence)	7521.
1010 (3d sentence)	4301(2)(E), 5335(a)(B), 5362.
1010 (4th sentence)	3344.
1010 (5th sentence)	1305.
1011 (1st, 2d sentences)	559.
1011 (3d sentence)	Pub. L. 89-554, § 7(g).
1011 (4th, 5th sentences)	559.
1011 (6th sentence)	Repealed.
1012(a)	500(a)(2), (b).
1012(b)	500(a)(2), (c).
1012(c), (d)	500(d), (e).
1013	500(f).
1014	500(a)(1).
1031(a)	See T 28 §§ 41 et seq., 43.
1031(b), (c)	T. 28 § 2341(1), (2).
1031(d)	T. 28 § 2341(3)(A)—(C).
1032 (text and cls. (a)—(d))	T. 28 § 2342 (text and cls. (1)—(4)).
1033	T. 28 § 2343.
1034 (text and cls. (a)—(d))	T. 28 § 2344 (text and cls. (1)—(4)).
1035	T. 28 § 2345.
1036	T. 28 § 2346.
1037	T. 28 § 2347.
1038	T. 28 § 2348.
1039	T. 28 § 2349.
1040 (1st sentence)	T. 28 § 2350(a).
1040 (2d sentence)	T. 28 § 2350(b).
1041	T. 28 § 2352.
1042	T. 28 § 2351.
1045(a)—(d)	Omitted.
1045(e)	571.
1045a(a)—(c)	572(1)—(3).
1045b	573.
1045c(a)—(c)	574(1)—(3).
1045d	575.
1045e	576.
1051 (1st sentence)	5352.
1051 (2d sentence)	5353.
1052	5102(c)(16), 5351(2)(A), (B).
1053	8144.
1054	8331(1)(ix), 8332(b)(4).
1055 (1st sentence)	5354(a).
1055 (2d sentence)	5354(b).
1056	Repealed.
1057	5355.
1058	5356.
1071	5101.
1072 and 1072a	3324(b), 5115, 5338, 5548(b), 7154(c).
1073	See 1308.
1074	7154(b).
1075	Repealed.
1076	Omitted.
1081(a)	305(a), 5102(a).
1081(a)(1), (2)	5102(a)(1)(A).
1081(a)(3)—(6)	5102(a)(B)—(E).
1081(a)(7)	5102(a)(1)(A).
1081(a)(8), (9)	5102(a)(1)(F), (G).
1081(b)	5102(b).
1082(1)—(6)	5102(c)(1)—(6).
1082(7) (intro. text)	5102(c)(7).
1082(7) (1st proviso)	5341(a).
1082(7) (2d proviso)	5341(b).
1082(8)	5102(c)(8), 5342(a).
1082(9)—(11)	5102(c)(9)—(11).
1082(12)	305(a)(2), 5102(a)(1)(ii).
1082(13)	Repealed.
1082(14), (15)	305(a)(3), (4), 5102(a)(1)(iii), (iv).
1082(16)	305(a)(6), 5102(a)(1)(vi).
1082(17)	305(a)(5), 5102(a)(1)(v).
1082(18), (19)	Repealed.
1082(20)	305(a)(7), 5102(a)(1)(vii).
1082(21)—(30)	5102(c)(12)—(21).
1082(31)	5102(c)(25).
1082(32)	305(a)(8), 5102(a)(1)(viii).
1082(33)—(35)	5102(c)(22)—(24).
1082(36)	5102(c)(26).
1083	5103.
1084(a)	T. 2 § 60e—2a.
1084(b)	5102(d).
1084(c)	5102(d), 5103.
1085	See 305(a).
1091(1)—(3)	5102(a)(3)—(5).
1092(a)	5106(a).
1092(b)	5106(b).
1093	5106(c).
1094	5105.
1101	5112.
1102(a)	5107.
1102(b)	5110(a).
1103	5110(b).
1104	5111.
1105(a)	5108(a) (last sentence).
1105(b)(1)—(5)	5108(a)(1)—(5).
1105(c)	5108(b).
1105(d)—(g)	5108(c)(1)—(4).
1105(h)	5108(d).
1105(i)(1), (2)	3324(1), (2).
1105(i)(3)	3324(4).
1105(i)(4)	3324(3).
1105(j)	5108(c)(5).
1105(k), (*l*)	5108(c)(7)(A), (B).
1105(m)	Repealed.
1105a	5114.
1105b	Omitted.
1106	5113.
1107(a)(1), (2)	5337(a)(1), (2).
1107(a)(3)	5337(a)(3)(A)—(D).
1107(a)(4), (5)	5337(a)(4), (5).
1107(a) (concluding text)	5337(a) (concluding text) (A), (B), (C) (i)—(iii).
1107(b)	Repealed.
1107(c)	5337(b).
1107(d)	5338.
1111	5104 (1st sentence).
1112 (1st through 18th pars.)	5104 (1)—(18).
1113(a), (b)	5332(a).
1113(c)	5332(b).
1114	Repealed.
1115	Repealed.
1116	Repealed. See 5316(25)—(28).
1117(a)	5595(a)(2)(A).
1117(a)(1)—(3)	5595(a)(1)(A)—(C).
1117(a)(4), (5)	5595(a)(1)(A),(D).
1117(a) (last sentence)	5595(a)(2)(B), (g).
1117(b)(1)—(8)	5595(a)(2)(i)—(viii).
1117(c)	5595(b)(2).
1117(d)	5595(c)
1117(e)	5595(b)(1).
1117(f)—(h)	5595(d)—(f).
1121(a)(1)—(3)	5335(a)(1)—(3).
1121(a)(A), (B)	5335(a)(A), (B).
1121(a)(C)	5335(b).
1121(b)	5335(d).
1121(c)	5335(c).
1122(a)	5336(a), (b).
1122(b)	5336(a).
1123	5335(e), 5336(c).
1124	See 5335, 5336.
1125	See 5335(d), 5336(c).
1131	5333(a).
1132(a), (b)	5334(a), (b).
1132(c)	5334(c)(1), (2).
1132(d)	5334(d).
1133	5333(b).
1134 (1st, 2d sentences)	5545(d) (1st, 2d sentences).
1134 (3d sentence, cls. 1, 2)	5545(d) (3d sentence, cls. 1, 2).
1134 (3d sentence, cls. 3, 4)	5545(d) (2d sentence).
1141	See 4302—4304 4306, 4307.
1142	See 4305.
1151(a)	305(b).
1151(b)	305(c).
1152	See 3362, 4502—4504.
1153	See 1308(a)(2).
1161(a)—(f)	3104(a)(1)—(6), 5361.
1161(g) (1st sentence)	3104(a)(7), 5361.
1161(g) (2d sentence)	3325(b).
1162(a)	3325(a).
1162(b)	5361.
1162(c)	3104(b).
1163	3104(c).
1171	5301.
1172	5302.
1173	5303.

Table Showing Disposition of all Sections of Former Title 5—Continued

Title 5 former sections	*Title 5 new sections*
1174	5304.
1181	5343.
1182(a)	5344(a)(1).
1182(a)(1)	5344(a)(2).
1182(a)(2)	5344(a)(2), 5581(2)(I).
1182(b)	8331(3).
1182(c)	5344(b).
1183	8704(d)(2).
1184	Repealed.
2001(a)(1), (2)	4301(1)(A).
2001(a)(3)—(6)	4301(1)(B)—(E)
2001(a)(7)	4301(1)(A).
2001(a)(8)	4301(1)(F).
2001(b)(1)	4301(1)(i).
2001(b)(2)	4301(1)(ii).
2001(b)(3)	4301(2)(A).
2001(b)(4)	4301(1)(iii).
2001(b)(5), (6)	Repealed.
2001(b)(7), (8)	4301(1)(vii).
2001(b)(9)	4301(2)(D).
2001(b)(10)	4301(1)(iv).
2001(b)(11)	4301(2)(B).
2001(b)(12)	4301(1)(v).
2001(b)(13)	4301(2)(C).
2001(b)(14)	4301(1)(vi).
2002	4302.
2003	4307.
2004	4303.
2005(1)	3502(a), (b), 4304(a)(1).
2005(2), (3)	4304(a)(2), (3).
2005 (last sentence)	4304(b) (1st sentence).
2006	4305.
2007(a)	4308.
2007(b)	4306(a).
2007(c), (d)	4306(b).
2061(a)	6301(2)(A), (B).
2061(b)(1)(A)—(D)	6301(2)(i)—(iv).
2061(b)(1)(E), (F)	2101(3), 2105(a)(1)(C), 6301(2)(A).
2061(b)(1)(G)—(I)	6301(2)(v)—(vii).
2061(b)(2)	6301(2)(viii).
2061(b)(3)	See 6301(2)(A), (B).
2061(c)(1)(A)	6301(2)(x).
2061(c)(1)(B)	6301(2)(xii).
2061(c)(1)(C)	6301(2)(xi).
2061(c)(1)(2d sentence)	5508.
2061(c)(2)	6305(b).
2061(d)	6301(1).
2061a(a)	5551(b).
2061a(b)	6302(e).
2062(a) (1st sentence, cls. (1)—(3)).	6303(a) (1st sentence, cls. (1)—(3)).
2062(a) (2d sentence)	6303(a) (2d, 4th sentences).
2062(a) (3d sentence, cl. (1)(A), (B)).	6303(a) (3d sentence, cl. (A) (i), (ii)).
2062(a) (3d sentence, cls. (2), (3)).	6303(a) (3d sentence, cls. (C), (B)).
2062(a) (4th sentence)	6303(a) (5th sentence).
2062(b)	6303(c).
2062(c)	6304(a).
2062(d)	6304(b).
2062(d)(1)(A), (B)	6304(b)(1).
2062(d)(2), (3)	6304(b)(2), (3).
2062(e)	6303(d).
2062(f)	6305(a).
2062(g)	6310.
2062(h)	6302(d).
2062(i)	6303(b).
2062a	See 6304.
2062b	See 6304.
2063	6307.
2064(a)—(c)	6302(a)—(c).
2064(d)	6309.
2064(e)	6308.
2065	6311.
2066(a)	6304(c).
2066(b)—(d)	Repealed.
2067	6301(2)(A)(B).
2068	Repealed.
2069	Repealed.
2070	Repealed.
2071(a)	6324(a).
2071(b)	6324(b)(1)—(3).
2091(a)	8701(a)(1), (4)—(7).
2091(b)	8701(a)(B).
2091(c)	8701(a)(1), 8706(d).
2091(d)	8701(a)(8), 8716(c).
2092(a)—(c)	8704(a)—(c).
2092(d)	See 8706(b).
2093 (1st, 2d pars.)	8705(a), (b).
2093 (3d par., 1st sentence).	8705(c).
2093 (3d par., 2d sentence).	8705(d).
2094(a) (1st par.)	8707.
2094(a) (2d par.)	8702(a), (b).
2094(b)	8708(a).
2094(c)	8714(a), (b).
2094(d)	8714(b).
2095	8706.
2096(a), (b)	8709(a), (b).
2096(c)	8710(a).
2096(d)	8710(c), (d).
2096(e)	8710(b), (c), (e), (f).
2096(f)	8709(c).
2097(a) (1st sentence)	8711(a).
2097(a) (2d sentence)	8711(b).
2097(b), (c)	8711(c), (d).
2097(d)	8712.
2098	8703.
2099	Omitted.
2100	8716(a).
2101(a)	8713(a)(1)—(3).
2101(b)	8713(b).
2102	1308(d).
2103	8715.
2121	1308(a)(2), 4506.
2122	3362 (2d sentence), 4501(1)(A), (i), (ii).
2122(a), (b)	4501(1)(B), (C).
2122(c), (d)	4501(1)(E), (F).
2122(e)	4501(1)(D).
2122(f)	4501(1)(G).
2123(a)	4503(1), (2).
2123(b)	4501(2)(A), 4504.
2123(c)	4505.
2123(d), (e)	4502(c), (d).
2123(f)	3362 (1st sentence).
2123(g)	4502(a), (b).
2131	5901(a), (b).
2132	5901(c), 8331(3).
2133	5901(d).
2134	5902.
2151	See T. 10 § 1481.
2152	See T. 10 §§ 1481, 1482.
2153	See T. 10 §§ 1481, 1482.
2154	See T. 10 § 1481.
2155—2160	See T. 10 §§ 1483—1488.
2161	See T. 10 § 1482.
2162	See T. 10 § 1482.
2163	Repealed.
2171	T. 50 § 1451.
2172	T. 50 § 1452.
2173	T. 50 § 1453.
2181	T. 50 § 1461.
2182	T. 50 § 1462.
2183	T. 50 § 1463.
2184	T. 50 § 1464.
2185	T. 50 § 1465.
2191	T. 50 § 1471.
2192	T. 50 § 1472.
2193	T. 50 § 1473.
2194	T. 50 § 1474.
2195	T. 50 § 1475.
2196	T. 50 § 1476.
2201—2207	See 5312—5317.
2208	See T. 37 § 201 et seq.
2209	Repealed.
2210	5311.
2211(a)	5312.
2211(b)(1)—(14)	5313(1)—(14).
2211(b)(15)	Omitted.
2211(b)(15) (proviso)	5314(45).
2211(b)(16)—(19)	5313(15)—(18).
2211(c)(1)—(38)	5314(1)—(38).
2211(c)(39)	Omitted.
2211(c)(39) (proviso)	5315(70)
2211(c)(40)—(45)	5314(39)—(44).
2211(c)(46)	Omitted.
2211(c)(46) (proviso)	5315(71).
2211(c)(47)	5314(51).
2211(d)(1)—(29)	5315(1)—(29).
2211(d)(30)	See 5314(51).
2211(d)(31)—(69)	5315(31)—(69).
2211(e)(1)—(93)	5316(1)—(93).
2211(e)(94)	Repealed. See T. 42 § 3535(c).
2211(e)(95)	Repealed.
2211(e)(96)—(99)	5316(96)—(99).

Table Showing Disposition of all Sections of Former Title 5—Continued

Title 5 former sections	*Title 5 new sections*
2211(e)(100)	5316(120).
2211(e)(101)	5316(123).
2211(f), (g)	5317. See 5315(72)—(77), 5316(100)—(116).
2212	5363.
2213	5364.
2251(a)	8331(1)(A).
2251(b)	8331(2).
2251(c)	2107(1)—(8), 8331(1)(B).
2251(d)	8331(3)(A), (B), (i), (ii).
2251(e)	8331(4)(A), (B).
2251(f), (g)	8331(5), (6).
2251(h)	8341(a)(1)(A), (B).
2251(i)	8341(a)(2)(A), (B), (3)(A), (B).
2251j (1st, 2d, 3d sentences)	8341(a)(4)(A)—(C) (last two sentences).
2251j (last sentence)	8342(c) (last sentence).
2251(k)	8331(7).
2251(*l*)(1)—(3)	8331(8)(A)—(C), (i), (ii).
2251(m)	Repealed.
2251(n)—(q)	8331(9)—(12).
2251(r)	2102(2), 8341(a)(13)(A)—(C).
2251(s)	8331(14).
2251(t)	8331(15), (16).
2252(a)	8331(1).
2252(b)	8331(1)(i), (ii).
2252(c)	8331(1)(B)(C).
2252(d)	8331(1)(D).
2252(e)	8347(g), (h).
2252(f)	8331(1)(v)—(viii), 8347(i), (j), (*l*).
2252(g) (1st sentence, cls. (1), (2)).	8331(1)(E).
2252(g) (2d sentence)	8332(i) (3d sentence).
2252(h) (intro. text)	8331(1)(F).
2252(h)(1)	8347(k).
2252(h)(2)	8332(b) (4th sentence).
2252(h)(3)	8332(b) (2d sentence, cl. (3)).
2253(a) (1st sentence)	8332(b) (1st sentence, 3d sentence, cl. (1)).
2253(a) (2d sentence)	8332(b) (3d sentence, cl. (2)).
2253(a) (3d sentence)	8332(b) (2d sentence).
2253(b) (1st sentence, cl. (1)).	8332(c)(1)(A).
2253(b) (1st sentence, cl. (2)).	8332(c)(1)(B), (2).
2253(b) (1st sentence, cl. (A), (B)).	8332(d)(1), (2).
2253(c), (d)	8332(f), (g).
2253(e)	8332(a).
2253(f), (g)	8333(a), (b).
2253(h)	8332(h).
2253(i) (1st, 2d sentences)	8332(i) (1st sentence, cls. (1), (2), 2d sentence).
2253(j)	8332(j), (k).
2254(a)—(f)	8334(a)—(f).
2254(g)	8334(g)(1)—(4).
2254(h)	8334(h).
2255(a)—(c)	8335(a)—(c).
2255(d)	8335(d)(1)—(4).
2255(e)	8335(e).
2256(a)—(e)	8336(a)—(e).
2256(a)—(f) (in part)	8336(g).
2256(f) (1st, 2d, 3d sentences)	8336(f).
2256(f) (4th sentence)	8333(c).
2257	8337.
2258(a)	8338(a), (c).
2258(b)	8338(b), (c).
2259(a) (less provisos)	8339(a).
2259(a) (1st proviso)	8339(e)(1).
2259(a) (2d proviso)	8339(f).
2259(b) (less provisos)	8339(b).
2259(b) (1st proviso)	8339(e)(1).
2259(b) (2d proviso)	8339(f).
2259(c)(1), (2)	8339(c).
2259(c)(A), (B)	8339(f).
2259(d)	8339(g).
2259(e)	8339(d), (e)(1).
2259(f)—(h)	8339(h)—(j).
2259(i)	8339(k)(1), (2).
2260(a)(1)	8339(i), 8341(b) (1st sentence).
2260(a)(2)	8341(b) (2d, 3d sentences).
2260(b), (c)	8341(c), (d).
2260(d) (1st sentence, cls. (1)—(3)).	8341(e)(1)(A)—(C).
2260(d) (2d sentence, cls. (1)—(3)).	8341(e)(1)(i)—(iii).
2260(d) (3d sentence, 4th sentence, cls. (1)—(6), 5th sentence).	8341(e)(2)(A)—(E) (last sentence).
2260(e)	8341(f).
2260(f)	8341(g).
2261(a)—(g)	8342(a)—(g).
2261(h)(1)	8342(h).
2261(h)(2)(A), (B)	8342(i)(1), (2).
2262(a)	8343(a)(1), (2).
2262(b)—(e)	8343(b)—(e).
2263(a)	3323(b).
2263(b) (1st sentence)	8344(a) (1st sentence).
2263(b) (2d sentence, less proviso).	8344(a) (2d, 3d sentences).
2263(b) (2d sentence, proviso, cls. (1), (2)).	8344(a) (4th sentence, cls. (A), (B)).
2263(b) (3d sentence)	8344(a) (7th sentence).
2263(b) (4th sentence)	8344(a) (5th sentence).
2263(b) (5th sentence, cls. (1), (2)).	8344(a) (6th sentence, cls. (i), (ii)).
2263(c)	8344(b).
2263(c)(1)(C)	Repealed.
2264	8345.
2265	8346.
2266(a)—(e)	8347(a)—(e).
2266(f)	1308(c).
2266(g)	8347(f).
2267(a)	8348(a) (2d sentence).
2267(b), (c)	8348(b), (c).
2267(d)	8348(d), (e).
2267(e)	8348(f).
2268(a)(1)(2)	8340(a)(1)(2).
2268(a) (penultimate sentence)	Repealed.
2268(a) (last sentence)	8340(a) (last sentence).
2268(b)—(e)	8340(b)—(e).
2268(f)	8340(a) (penultimate sentence).
2268(g)(1)(2)(A), (B)	8340(f)(1)(2).
2281(1)	8311(1).
2281(2) (intro. text)	8311(2) (intro. text).
2281(2)(A)—(C)	8311(2)(A)—(C).
2281(2)(D)	8311(2)(D), (E).
2281(2)(E)	8311(2)(F)(i), (ii).
2281(2)(F)	8311(2)(G)(i), (ii).
2281(3) (intro. text)	8311(3) (intro. text).
2281(3)(A)	8311(3)(A).
2281(3)(B)	8311(3)(B)(i), (ii).
2281(3)(C)	8311(3)(C)(i), (ii).
2281(3)(D)	8311(3)(D).
2281(4)	2101(2).
2282(a) (intro. text)	8312(a)(1), (A).
2282(a)(1)—(4)	8312(b)(1)—(4).
2282(b) (intro. text)	8312(a)(2), (B).
2282(b)(1)—(4)	8312(c)(1)—(4).
2283(a)(1), (2)	8314(a)(1), (2), (b).
2283(b)(1)(A) — (C),(2), (3).	8315(a)(1)(A)(i)—(iii), (B), (C), (b)(1).
2283(c)	8313(a)(1)(A), (B).
2283a(1)(A), (B)	8315(a)(2), (b)(2).
2283a(2)	8313(a)(2).
2283a(i)—(iii)	8313(b)(1)—(3).
2284(a)(1), (2), (A)—(C)	8316(a)(1)(A)—(C).
2284(b)	8316(b).
2284(c), (d)	8317(a).
2284a(a)	8317(b).
2284a(b)	8316(a)(2), (b).
2285(a) (1st, 2d sentences)	8318(a).
2285(a) (3d sentence)	8318(d).
2285(a) (4th sentence)	8318(c)(1).
2285(b) (1st sentence)	8318(b).
2285(b) (2d sentence)	8318(d).
2285(b) (3d sentence)	8318(c)(2).
2285(c)	8320.
2286	8321.
2287(a)(1)	8319(a).
2287(a)(2)(A), (B)	8319(b)(1), (2).
2287(b)	8319(c).
2288	8322.
2301(1)—(3)	Omitted.
2301(4)	4117.
2302(1)	4101(3).
2302(2)(A)—(C)	4101(1)(A)—(C).
2302(2)(D)	4101(1)(B).
2302(2)(E)—(G)	4101(D)—(F).
2302(3)	4101(2)(A), (B).
2302(4)	Repealed.
2302(5), (6)	4101(4), (5).
2302(7)(A)—(E)	4101(6)(A)—(F).
2303(a)(1)(A)	Repealed.
2303(a)(1)(B)—(D)	4102(a)(1)(A)—(C).
2303(a)(2)	4102(a)(2).

TABLE SHOWING DISPOSITION OF ALL SECTIONS OF FORMER TITLE 5—Continued

Title 5 former sections	*Title 5 new sections*
2303(b)	4102(b).
2304	4113(a).
2305	4118.
2306	4103(1)—(3).
2307	4104.
2308	4105.
2309(1)	4109(a)(1).
2309(2)(A)—(F)	4109(a)(2)(A)—(F).
2309(2) (last sentence)	4109(b).
2310	4108.
2311(a)(1)—(3)	4106(a)(1)—(3).
2311(a)(4)	4106(a) (last sentence).
2311(b)	4106(b).
2312(1), (2)	4107(c)(1), (2).
2313	4107(a)(1), (2).
2314—2316	4114—4116.
2317(a)	4113(b).
2317(b)(1)—(3)	1308(a)(4)(A)—(C).
2317(c)	1308(b).
2318(a)	4111(a).
2318(b)	4110.
2318(c)	4111(b).
2318(d)	4107(b).
2318(e)	4117.
2319	4112.
2331(1)	3343(a)(1), 3581(3).
2331(2)	3343(a)(1), 3581(1).
2331(3)	3343(a)(1), 3581(2).
2331(4)	2107.
2331(5)	3581(4).
2331(6)	3343(a)(2).
2331(7)	3581(5).
2332(a)—(d)	3343(b)—(e).
2333(a)	3582(a), (b).
2333(a)(1)—(4)	3582(a)(1)—(4).
2333(a)(5), (6)	3582(b).
2333(b)	3582(d).
2333(c)	3583.
2333(d)	3582(c).
2334	3584.
2351	T. 20 § 901.
2352	T. 20 § 902.
2353	T. 20 § 903.
2354	T. 20 § 904.
2355	T. 20 § 905.
2356	T. 20 § 906.
2357	5334(e).
2358(a)	5541(2)(xiii), 6101(d), 6301 (2)(ix).
2358(b)	T. 20 § 907.
2358(c)	8331(1) (penult. sentence), 8701(b) (1st sentence).
2371—2379	T. 42 § 4271—4279.
3001(a)	8901(1)(A)—(G), (i)—(iii).
3001(b)	8901(2).
3001(c)(1)—(3)	8901(3)(A)—(C).
3001(c)(4)(A), (B)	8901(3)(D) (i), (ii).
3001(c) (last sentence)	8901(4).
3001(d)(1) (A), (B), (2)	8901(5) (A), (B).
3001(e)	Repealed.
3001(f), (g)	8901 (6), (7).
3001(h)	Repealed.
3001(i)(1), (2)	8901(8).
3002(a) (1st sentence)	8905(a), 8913(b) (1st sentence).
3002(a) (2d sentence)	8913(b) (2d sentence), (b)(1).
3002(a) (proviso)	8905(b)(2).
3002(b)—(e)	8913(b)—(e).
3002(f) (1st sentence)	See 8901(1)(H); 8913(b) (1st sentence).
3002(f) (2d sentence)	8913(d).
3002(g)	Repealed.
3003	8903.
3004	8904.
3005(a)	8902(a).
3005(b)(1)	8902(b).
3005(b)(2)(A), (B)	8902(c)(1), (2).
3005(c)—(h)	8902(d)—(i).
3006(a)(1)	8906(a).
3006(a)(2)—(4)	8906(b)—(d).
3006(b)	8906(e).
3006(c)(1)—(4)	8906(f)(1)—(4).
3006(c) (last sentence)	8906(g).
3006(d)	8906(h).
3007(a) (1st sentence)	8909(a) (1st sentence), (a)(1).
3007(a) (2d sentence	8909(a) (2d sentence).
3007(b), (c)	8909(b), (c).
3007(d)(1), (2)	8909(d), (e).
3008(a)	Repealed.
3008(b)	8909(a)(2).
3009(a)	8913(a).
3009(b)	8913(c).
3009(c)	8908.
3009(d) (1st sentence)	8907(a).
3009(d) (2d sentence)	8907(b)(1)—(3).
3010	8910.
3011	1308(e).
3012	8911.
3013(a)	1104(a)(2), 5109 (b).
3013(b)	See 5316(99).
3014	8912.
3031	Omitted.
3032(1)	5921(1).
3032(2)(A)—(D)	5921(2).
3032(3)—(5)	5921(3)—(5).
3032(6)	5921(6)(A), (B).
3033	5922(a).
3034 (1st paragraph)	5922(b)(1), (2).
3034 (2d paragraph)	5922(b) (last sentence).
3035	5922(c)(1)—(3).
3036(1), (2)	5923(1), (2).
3036(3)	5923(3)(A), (B).
3037(1)	5924(1).
3037(2)	5924(2)(A), (B).
3037(3), (4)	5924(3), (4).
3038	5925.
3039	5913(b)(1), (2).
3051—3060	Omitted. See 8901—8913.
3071(1)(A)—(C)	5521(1)(A).
3071(1)(D)	5521(1)(B).
3071(1)(E)	5521(1)(A).
3071(1)(F)	5521(1)(C).
3071(1)(G)	5521(1)(E).
3072(a), (b)	5522(a), (b).
3072(c), (d)	5522(c).
3073(a)(1)	5523(a)(1) (last sentence).
3073(a)(1)(A), (B), (2), (b), (c)	5523(a)(1)(A), (B), (2), (b), (c).
3074	5524.
3075	5525.
3076	5527.
3077	Repealed.
3078	5526.
3101(1)	3326(a), 3501(a)(1), 5531(1).
3101(2)	3501(a)(2), 6303(a).
3101(3)	5531(2).
3102(a)	5532(b).
3102(b)(1), (2)	5532(c)(1)(A), (B).
3102(c)(1), (2)	5532(c)(2), (c)(i), (ii).
3102(d)	5532(a).
3102(e)	5532(e).
3102(f)—(h)	Omitted.
3103(a)	3326(b).
3103(b)	3326(c).
3104	Omitted.
3105(a)—(c)	5533(a)—(c).
3105(d)(1)—(4)	5533(d)(1)—(4).
3105(d)(5)	5533(d)(5)(A), (B).
3105(d)(6)	5533(d)(6).
3105(d)(7)(A)	5533(d)(7)(G).
3105(d)(7)(B)	5533(d)(7)(A).
3105(d)(7)(C)	5533(d)(7)(G).
3105(d)(7)(D)	5533(d)(7)(E).
3105(d)(7)(E)	5533(d)(7)(C).
3105(d)(7)(F)	5533(d)(7)(D).
3105(d)(7)(G)	5533(d)(7)(H).
3105(d)(7)(H)	5533(d)(7)(B).
3105(d)(7)(I)	5533(d)(7)(F).
3105(e)	Omitted.
3105(f)	5533(e).
3121(1)	5911(a)(1).
3121(2)(A)—(D)	5911(a)(2).
3121(3)—(6)	5911(a)(3)—(6).
3121(7)	See 2101(3).
3122	5911(b).
3123	5911(c).
3124	5911(d).
3125	5911(e).
3126	5911(f).
3127	5911(g).

ENACTING CLAUSE

Section 1 of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378, provided in part: "That the laws relating to the organization of the Government of the United States and to its civilian officers and employees, generally, are revised, codified, and enacted as title 5 of the

United States Code, entitled 'Government Organization and Employees', and may be cited as '5 U.S.C., § '".

Legislative Purpose: Inconsistent Provisions

Section 7(a) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, provided that: "The legislative purpose in enacting sections 1-6 of this Act is to restate, without substantive change, the laws replaced by those sections on the effective date of this Act [Sept. 6, 1966]. Laws effective after June 30, 1965, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency."

References to Other Laws

Section 7(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, provided that: "A reference to a law replaced by sections 1-6 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act."

Outstanding Orders, Rules and Regulations

Section 7(c) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, provided that: "An order, rule, or regulation in effect under a law replaced by sections 1-6 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded."

Savings Provision

Section 7(d) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, provided that: "An action taken or an offense committed under a law replaced by sections 1-6 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act."

Legislative Construction

Section 7(e) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, provided that: "An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof."

Pay, Allowances, Compensation, or Annuity

Section 7(f) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, provided that: "The enactment of this Act does not increase or decrease the pay, allowances, compensation, or annuity of any person."

Separability of Provisions

Section 7(g) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 631, provided that: "If a provision enacted by this Act is held invalid, all valid provisions that are separable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications."

Applicability to Commissioned Officers of Public Health Service and Coast and Geodetic Survey

Section 7(h) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 632, provided that: "Sections 1-6 of this Act shall be construed to apply to commissioned officers of the Public Health Service and commissioned officers of the Coast and Geodetic Survey [now the National Oceanic and Atmospheric Administration] to the same extent that the laws replaced by those sections applied to these officers immediately before the date of enactment of this Act [Sept. 6, 1966]."

Repeals

Section 8(a) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 632, repealed the sections or parts thereof of the Revised Statutes or Statutes at Large codified in this title, except with respect to rights and duties that matured, penalties that were incurred, and proceedings that were begun, before Sept. 6, 1966, and except as provided by section 7 of Pub. L. 89-554.

Section 8(c) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 632, provided that: "The repeal of a law by this Act may not be construed as a legislative inference that the provision was or was not in effect before its repeal."

Continuation of Right to Deferred Annuity

Section 8(b) of Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 632, provided that: "The right to a deferred annuity on satisfaction of the conditions attached thereto is continued notwithstanding the repeal of the law conferring the right."

Improvement of United States Code by Pub. L. 90-83; Legislative Purpose; Repeal of Inconsistent Provisions; Corresponding Provisions; Savings and Separability of Provisions Clauses

Subsecs. (a) to (g) of section 9 of Pub. L. 90-83, Sept. 11, 1967, 81 Stat. 222, provided that:

"(a) The legislative purpose in enacting sections 1-8 of this Act is to restate, without substantive change, the laws replaced by those sections on the effective date of this Act. Laws effective after February 21, 1967, that are inconsistent with this Act are considered as superseding it to the extent of the inconsistency.

"(b) A reference to a law replaced by sections 1-8 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision enacted by this Act.

"(c) An order, rule, or regulation in effect under a law replaced by sections 1-8 of this Act continues in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

"(d) An action taken or an offense committed under a law replaced by sections 1-8 of this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

"(e) An inference of a legislative construction is not to be drawn by reason of the location in the United States Code of a provision enacted by this Act or by reason of the caption or catchline thereof.

"(f) The enactment of this Act does not increase or decrease the pay, allowances, compensation, or annuity of any person.

"(g) If a provision enacted by this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in one or more of its applications, the provision remains in effect in all valid applications that are severable from the invalid application or applications."

PART I—THE AGENCIES GENERALLY

Chap.		Sec.
1.	**Organization**	101
3.	**Powers**	301
5.	**Administrative Procedure**	[1]501
7.	**Judicial Review**	701
9.	**Executive Reorganization**	901

CHAPTER 1—ORGANIZATION

Sec.
101. Executive departments.
102. Military departments.
103. Government corporation.
104. Independent establishment.
105. Executive agency.

Cross References

Board of Engineers for Rivers and Harbors, see section 541 of Title 33, Navigation and Navigable Waters.

Board on Coastal Engineering Research, see section 426-2 of Title 33.

---

[1] **Pub. L. 90-83 added section 500 to chapter 5 without making a corresponding change in Part analysis.**

- Bureau of Engraving and Printing, see section 171 et seq. of Title 31, Money and Finance.
- Bureau of Indian Affairs, see section 1 et seq. of Title 25, Indians.
- Bureau of Land Management, see section 2 et seq. of Title 43, Public Lands.
- Bureau of Mines, see section 1 et seq. of Title 30, Mineral Lands and Mining.
- Bureau of Public Roads, see section 303 of Title 23, Highways.
- Bureau of the Census, see section 2 of Title 13, Census.
- Bureau of the Mint, see section 251 et seq. of Title 31, Money and Finance.
- California Debris Commission, see section 661 et seq. of Title 33, Navigation and Navigable Waters.
- Cape Cod National Seashore Advisory Commission, see section 459b—7 of Title 16, Conservation.
- Civil Service Commission, see section 1101 et seq. of this title.
- Coast Guard Reserve Policy Board, see section 753a of Title 14, Coast Guard.
- Communications Satellite Corporation, see section 731 et seq. of Title 47, Telegraphs, Telephones, and Radiotelegraphs.
- Congressional Budget Office, see section 601 et seq. of Title 2, The Congress.
- Copyright Office, see section 201 et seq. of Title 17, Copyrights.
- Education—
  - Advisory Committee on New Educational Media, see section 561 of Title 20.
  - Advisory Council on College Library Resources, see section 1025 of Title 20.
  - Advisory Council on Developing Institutions, see section 1053 of Title 20.
  - Advisory Council on Graduate Education, see section 1145 of Title 20, Education.
  - Federal Council on the Arts and the Humanities, see section 958 of Title 20.
  - National Advisory Council on Extension and Continuing Education, see section 1009 et seq. of Title 20.
  - National Advisory Council on the Education of Disadvantaged Children, see section 241*l* of Title 20.
  - National Advisory Council on Supplementary Centers and Services, see section 847a of Title 20.
  - National Air and Space Museum, see section 77 et seq. of Title 20.
  - National Armed Forces Museum Advisory Board, see section 80 of Title 20.
  - National Council on the Arts, see section 955 of Title 20.
  - National Council on the Humanities, see section 957 of Title 20.
  - National Endowment for the Arts, see section 954 of Title 20.
  - National Endowment for the Humanities, see section 956 of Title 20.
  - National Foundation on the Arts and the Humanities, see section 951 et seq. of Title 20.
  - National Museum, see section 59 et seq. of Title 20.
  - National Teacher Corps, see section 1101 et seq. of Title 20.
  - National Technical Institute for the Deaf, see section 681 et seq. of Title 20.
  - Office of Education, see section 1221a of Title 20.
  - Smithsonian Institution, see section 41 et seq. of Title 20.
- Farmers Home Administration, see section 1981 of Title 7, Agriculture.
- Federal Aviation Program—
  - Civil Aeronautics Board, see section 1321 of Title 49, Transportation.
  - Federal Aviation Administration, see section 1341 of Title 49.
  - Federal Aviation Administration, Advisory Committees, see section 1343 of Title 49.
  - Joint Boards, see section 1483 of Title 49.
- Federal Communications Commission, see sections 151, 154, and 155 of Title 47, Telegraphs, Telephones and Radiotelegraphs.
- Federal Power Commission, see section 792 of Title 16, Conservation.
- Federal Records Council, see section 2701 of Title 44, Public Printing and Documents.
- Foreign Trade Zones Board, see section 81a of Title 19, Customs Duties.
- General Services Administration, see section 751 et seq. of Title 40, Public Buildings, Property, and Works.
- Geological Survey, see section 31 et seq. of Title 43, Public Lands.
- Government Printing Office, see section 301 et seq. of Title 44, Public Printing and Documents.
- Grazing Advisory Boards, see section 580k of Title 16, Conservation.
- Indian Arts and Crafts Board, see section 305 of Title 25, Indians.
- Indian Claims Commission, see section 70 et seq. of Title 25.
- Interstate Commerce Commission, see section 11 et seq. of Title 49, Transportation.
- Joint Boards, see section 305 of Title 49.
- Joint Commission on the Coinage, see section 301 et seq. of Title 31, Money and Finance.
- Labor—
  - Advisory Council on Employee Welfare and Pension Benefit Plans, see section 308e of Title 29, Labor.
  - Bureau of Labor Statistics, see section 1 et seq. of Title 29.
  - Federal Advisory Council on Employment Security, see section 49j of Title 29.
  - Federal Mediation and Conciliation Service, see section 172 of Title 29.
  - National Emergencies, Board of Inquiry, see sections 176 and 177 of Title 29.
  - National Labor-Management Panel, see section 175 of Title 29.
  - National Labor Relations Board, see section 153 et seq. of Title 29.
  - Special Industry Committees for Puerto Rico and the Virgin Islands, see section 205 of Title 29.
  - Wage and Hour Division, Department of Labor, see section 204 of Title 29.
  - Women's Bureau, Department of Labor, see section 11 et seq. of Title 29.
- Labor, Carrier-Employee Relations—
  - Emergency Board, disputes, see section 160 of Title 45, Railroads.
  - National Air Transport Adjustment Board, see section 185 of Title 45.
  - National Mediation Board, see section 154 of Title 45.
  - National Railroad Adjustment Board, see section 153 of Title 45.
  - Railroad Retirement Board, see section 228j of Title 45.
- Legislative Classification Office, see section 286 et seq. of Title 2, The Congress.
- Library of Congress—
  - Generally, see section 131 et seq. of Title 2, The Congress.
  - Congressional Research Service, see section 166 of Title 2.
  - Trust Fund Board, see section 154 et seq. of Title 2.
- Migratory Bird Conservation Commission, see section 715 et seq. of Title 16, Conservation.
- Mississippi River Commission, see section 641 et seq. of Title 33, Navigation and Navigable Waters.
- National Capital—
  - Commission of Fine Arts, see section 104 of Title 40, Public Buildings, Property, and Works.
  - National Capital Planning Commission, see section 71a of Title 40.
- National Fisheries Center and Aquarium, Advisory Board, see section 1054 of Title 16, Conservation.

National Historical Publications Commission, see section 2501 et seq. of Title 44, Public Printing and Documents.

National Park Service, see section 1 et seq. of Title 16, Conservation.

National Park Foundation, see section 19e et seq. of Title 16.

National Parks, Historic Sites, Buildings, and Monuments, see section 463 of Title 16.

North Pacific Fisheries, Advisory Committee, see section 1023 of Title 16.

Northwest Atlantic Fisheries, Advisory Committee, see section 983 of Title 16.

Office of Law Revision Counsel, see section 285 et seq. of Title 2, The Congress.

Office of Legislative Counsel, see section 271 et seq. of Title 2, The Congress.

Office of Management and Budget, see section 16 et seq. of Title 31, Money and Finance.

Office of President, see section 101 et seq. of Title 3, The President.

Patent and Trademark Office, see section 1 et seq. of Title 35, Patents.
  Board of Appeals, see section 7 of Title 35.
  Board of Patent Interferences, see section 135 of Title 35.

Public Land Law Review Commission, see section 1391 et seq. of Title 43, Public Lands.

Roosevelt Campobello International Park Commission, see section 1102 et seq. of Title 16, Conservation.

Soil Conservation Service, see section 590e of Title 16.

Tuna Conventions, Advisory Committee, see section 953 of Title 16.

United States Fish and Wildlife Service, see section 742b of Title 16.

United States Tariff Commission, see section 1330 et seq. of Title 19, Customs Duties.

Water Pollution Control Advisory Board, see section 1363 of Title 33, Navigation and Navigable Waters.

§ 101. Executive departments

The Executive departments are:

The Department of State.

The Department of the Treasury.

The Department of Defense.

The Department of Justice.

The Department of the Interior.

The Department of Agriculture.

The Department of Commerce.

The Department of Labor.

The Department of Health, Education, and Welfare.

The Department of Housing and Urban Development.

The Department of Transportation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378; Pub. L. 89-670, § 10(b), Oct. 15, 1966, 80 Stat. 948; Pub. L. 91-375, § 6(c)(1), Aug. 12, 1970, 84 Stat. 775.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1	R.S. § 158. Feb. 9, 1889, ch. 122, § 1 (38th through 54th words), 25 Stat. 659. Feb. 14, 1903, ch. 552, § 1 (83d through 99th words), 32 Stat. 825. Mar. 4, 1913, ch. 141, § 1 (75th through 91st words), 37 Stat. 736. Aug. 10, 1949, ch. 412, § 4 "Sec. 201(c)", 63 Stat. 579. July 31, 1956, ch. 802, § 1(a), 70 Stat. 732.
....	5 U.S.C. 2	R.S. § 159.

The reference in former section 1 to the application of the provisions of this title, referring to title IV of the Revised Statutes, is omitted as unnecessary as the application of those provisions is stated in the text.

The statement in former section 2 that the use of the word "department" means one of the Executive departments named in former section 1 is omitted as unnecessary as the words "Executive department" are used in this title when Executive department is meant.

"The Department of Commerce" is substituted for "The Department of Commerce and Labor" on authority of the act of March 4, 1913, ch. 141, § 1, 37 Stat. 736.

AMENDMENTS

1970—Pub. L. 91-375 struck out "The Post Office Department" following "The Department of Justice".

1966—Pub. L. 89-670 included The Department of Housing and Urban Development and The Department of Transportation.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967 as prescribed by the President and published in the Federal Register, see section 15(a) of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of Title 49, Transportation.

PROHIBITION AGAINST CONSTRUCTION THAT WOULD RENDER APPLICABLE TO THE DEPARTMENT OF TRANSPORTATION PROVISIONS OF LAW INCONSISTENT WITH PUB. L. 89-670 CREATING THE DEPARTMENT OF TRANSPORTATION

Section 10(c) of Pub. L. 89-670 provided that: "The amendment made by subsection (b) of this section [amending this section] shall not be construed to make applicable to the Department any provision of law inconsistent with this Act [Pub. L. 89-670]."

CROSS REFERENCES

Attorney General to advise heads of executive departments, see section 512 of Title 28, Judiciary and Judicial Procedure.

Definition of department—
  Administrative Expenses Act of 1946, see section 5a of Title 41, Public Contracts.
  Crimes and Criminal Procedure, see section 6 of Title 18, Crimes and Criminal Procedure.

Departmental provisions—
  Agriculture, see section 2201 et seq. of Title 7, Agriculture.
  Commerce, see section 1501 et seq. of Title 15, Commerce and Trade.
  Defense, see section 131 et seq. of Title 10, Armed Forces.
  Health, Education, and Welfare, see section 3501 et seq. of Title 42, The Public Health and Welfare.
  Housing and Urban Development, see section 3531 et seq. of Title 42.
  Interior, see section 1451 et seq. of Title 43, Public Lands.

Justice, see section 501 et seq. of Title 28, Judiciary and Judicial Procedure.
Labor, see section 551 et seq. of Title 29, Labor.
Post Office, see section 201 et seq. of Title 39, Postal Service.
State, see section 2651 et seq. of Title 22, Foreign Relations and Intercourse.
Transportation, see section 1651 et seq. of Title 49, Transportation.
Treasury, see section 1001 et seq. of Title 31, Money and Finance. Internal revenue authority, see section 7801 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 6001; title 28 section 451; title 31 section 638a; title 41 section 403.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 11-1522 of the District of Columbia Code.

§ 102. Military departments

The military departments are:
The Department of the Army.
The Department of the Navy.
The Department of the Air Force.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.)

HISTORICAL AND REVISION NOTES

The section is supplied to avoid the necessity for defining "military departments" each time it is used in this title. See section 101(7) of title 10.

CROSS REFERENCES

Attorney General to advise Secretaries of military departments, see section 513 of Title 28, Judiciary and Judicial Procedure.

Organization—
- Air Force, see section 8010 et seq. of Title 10, Armed Forces.
- Army, see section 3010 et seq. of Title 10.
- Navy, see section 5011 et seq. of Title 10.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 6001; title 29 sections 203, 633a; title 41 sections 48b, 403; title 42 section 2000e-16.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 11-1522 of the District of Columbia Code.

§ 103. Government corporation

For the purpose of this title—

(1) "Government corporation" means a corporation owned or controlled by the Government of the United States; and

(2) "Government controlled corporation" does not include a corporation owned by the Government of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 378.)

HISTORICAL AND REVISION NOTES

The section is supplied to avoid the necessity for defining "Government corporation" and "Government controlled corporation" each time it is used in this title.

CROSS REFERENCES

Federal Crop Insurance Corporation, see section 1501 et seq. of Title 7, Agriculture.

Government Corporation Control Act, see section 841 et seq. of Title 31, Money and Finance.

§ 104. Independent establishment

For the purpose of this title, "independent establishment" means—

(1) an establishment in the executive branch (other than the United States Postal Service or the Postal Rate Commission) which is not an Executive department, military department, Government, corporation, or part thereof, or part of an independent establishment; and

(2) the General Accounting Office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379; Pub. L. 91-375, § 6(c)(2), Aug. 12, 1970, 84 Stat. 775.)

HISTORICAL AND REVISION NOTES

The section is supplied to avoid the necessity for defining "independent establishment" each time it is used in this title.

Certain agencies are not independent establishments under the definition since they are constituent agencies or parts of an independent establishment. However, these agencies would continue to be subject to the provisions of this title applicable to the independent establishment of which they are a constituent or part. Also, the definition does not expand or abridge any rights or authority possessed by these agencies as no substantive changes are intended, see section 7(a) of the bill.

AMENDMENTS

1970—Par. (1). Pub. L. 91-375 inserted "(other than the United States Postal Service or the Postal Rate Commission)" after "executive branch".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

CROSS REFERENCES

General Accounting Office, see section 41 et seq. of Title 31, Money and Finance.

Veterans' Administration, see section 201 et seq. of Title 38, Veterans' Benefits.
- Board of Veterans' Appeals, see section 4001 et seq. of Title 38.
- Department of Medicine and Surgery, see section 4101 et seq. of Title 38.
- Veterans' Canteen Service, see section 4201 et seq. of Title 38.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 41 section 403.

§ 105. Executive agency

For the purpose of this title, "Executive agency" means an Executive department, a Government corporation, and an independent establishment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379.)

HISTORICAL AND REVISION NOTES

The section is supplied to avoid the necessity for defining "Executive agency" each time it is used in this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1749bbb-10b; title 22 section 2685; title 29 sections 203, 633a; title 41 section 48b; title 42 sections 2000e-16, 4071, 4902; title 50 section 1601.

CHAPTER 3—POWERS

Sec.
301. Departmental regulations.
302. Delegation of authority.
303. Oaths to witnesses.
304. Subpenas.
305. Systematic agency review of operations.

§ 301. Departmental regulations

The head of an Executive department or military department may prescribe regulations for the government of his department, the conduct of its employees, the distribution and performance of its business, and the custody, use, and preservation of its records, papers, and property. This section does not authorize withholding information from the public or limiting the availability of records to the public.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 22	R.S. § 161. Aug. 12, 1958, Pub. L. 85-619, 72 Stat. 547.

The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101. The words "not inconsistent with law" are omitted as surplusage as a regulation which is inconsistent with law is invalid.

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which provided:

"All laws, orders, regulations, and other actions relating to the National Military Establishment, the Departments of the Army, the Navy, or the Air Force, or to any officer or activity of such establishment or such departments, shall, except to the extent inconsistent with the provisions of this Act, have the same effect as if this Act had not been enacted; but, after the effective date of this Act, any such law, order, regulation, or other action which vested functions in or otherwise related to any officer, department, or establishment, shall be deemed to have vested such function in or relate to the officer, or department, executive or military, succeeding the officer, department, or establishment in which such function was vested. For purposes of this subsection the Department of Defense shall be deemed the department succeeding the National Military Establishment, and the military departments of Army, Navy, and Air Force shall be deemed the departments succeeding the Executive Departments of Army, Navy, and Air Force."

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EQUAL OPPORTUNITY IN FEDERAL EMPLOYMENT

Establishment of equal employment opportunity programs by heads of Executive departments and agencies, see Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319 and Ex. Ord. No. 11478, Aug. 8, 1969, 34 F.R. 12985, set out as notes under section 2000e of Title 42, The Public Health and Welfare.

CROSS REFERENCES

Confidential records—

Tax returns and lists, publicity, see section 6103 et seq. of Title 26, Internal Revenue Code.

Visas or permits to enter United States, records of Department of State and of diplomatic and consular offices respecting issuance or refusal, see section 1202 of Title 8, Aliens and Nationality.

§ 302. Delegation of authority

(a) For the purpose of this section, "agency" has the meaning given it by section 5721 of this title.

(b) In addition to the authority to delegate conferred by other law, the head of an agency may delegate to subordinate officials the authority vested in him—

(1) by law to take final action on matters pertaining to the employment, direction, and general administration of personnel under his agency; and

(2) by section 3702 of title 44 to authorize the publication of advertisements, notices, or proposals.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379; Pub. L. 94-183, § 2(1), Dec. 31, 1975, 89 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 22a	Aug. 2, 1946, ch. 744, § 12, 60 Stat. 809.

Clause (2) of former section 22a is omitted because of the repeal of R.S. § 3683 (31 U.S.C. 675) by the Act of Sept. 12, 1950, ch. 946, § 301(76), 64 Stat. 843.

The word "agency" is substituted for "department" and defined to conform to the definition of "department" in section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

In subsection (b), the words "In addition to the authority to delegate conferred by other law," are added for clarity and in recognition of the various reorganization plans which generally have transferred all functions of the departments and agencies to the heads thereof and have authorized them to delegate the functions to subordinates.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Subsec. (b)(2). Pub. L. 94-183 substituted "3702" for "324".

§ 303. Oaths to witnesses

(a) An employee of an Executive department lawfully assigned to investigate frauds on or attempts to defraud the United States, or irregularity or misconduct of an employee or agent of the United States, may administer an oath to a witness attending to testify or depose in the course of the investigation.

(b) An employee of the Department of Defense lawfully assigned to investigative duties may administer oaths to witnesses in connection with an official investigation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379; Pub. L. 94-213, Feb. 13, 1976, 90 Stat. 179.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 93	R.S. § 183. Mar. 2, 1901, ch. 809, § 3, 31 Stat. 951. Feb. 13, 1911, ch. 43, 36 Stat. 898.

The word "employee" is substituted for "officer or clerk" in view of the definition in section 2105. The words "Executive department" are substituted for "departments" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101. So much as related to the Armed Forces is omitted as superseded by section 636 of title 14 and section 936(b) of title 10.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (formerly 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1976—Pub. L. 94-213 designated existing provisions as subsec. (a) and added subsec. (b).

CROSS REFERENCES

Armed forces personnel, administration of oaths by designated persons on active duty, see section 936 of Title 10, Armed Forces.

Coast Guard, administration of oaths by designated officers, see section 636 of Title 14, Coast Guard.

§ 304. Subpenas

(a) The head of an Executive department or military department or bureau thereof in which a claim against the United States is pending may apply to a judge or clerk of a court of the United States to issue a subpena for a witness within the jurisdiction of the court to appear at a time and place stated in the subpena before an individual authorized to take depositions to be used in the courts of the United States, to give full and true answers to such written interrogatories and cross-interrogatories as may be submitted with the application, or to be orally examined and cross-examined on the subject of the claim.

(b) If a witness, after being served with a subpena, neglects or refuses to appear, or, appearing, refuses to testify, the judge of the district in which the subpena issued may proceed, on proper process, to enforce obedience to the subpena, or to punish for disobedience, in the same manner as a court of the United States may in case of process of subpena ad testificandum issued by the court.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 379.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 94	R.S. § 184.
(b)	5 U.S.C. 96	R.S. § 186.

In subsection (a), the words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101. The word "thereof" is added to reflect the proper relationship between "department" and "bureau" as reflected in title IV of the Revised Statutes of 1878. The words "in any State, District, or Territory" are omitted as unnecessary. The word "individual" is substituted for "officer" as the definition of "officer" in section 2104 is narrower than the word "officer" in R.S. § 184 which word includes "officers" as defined in section 2104 as well as notaries public who are not "officers" under section 2104, but are "officers" as that word is used in R.S. § 184.

In subsection (a), the words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Examiners appointed by directors of Federal Deposit Insurance Corporation, power to subpena witnesses, see section 1820 of Title 12, Banks and Banking.

Fees and allowances for witnesses subpenaed under subsec. (a) of this section, see section 503 of this title.

Legal services on pending claims in departments and agencies, see section 514 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 503 of this title.

§ 305. Systematic agency review of operations

(a) For the purpose of this section, "agency" means an Executive agency, but does not include—

(1) a Government controlled corporation;
(2) the Tennessee Valley Authority;
(3) the Alaska Railroad;
(4) the Virgin Islands Corporation;
(5) the Atomic Energy Commission;
(6) the Central Intelligence Agency;
(7) the Panama Canal Company; or
(8) the National Security Agency, Department of Defense.

(b) Under regulations prescribed and administered by the Director of the Bureau of the Budget, each agency shall review systematically the operations of each of its activities, functions, or organization units, on a continuing basis.

(c) The purpose of the reviews includes—

(1) determining the degree of efficiency and economy in the operation of the agency's activities, functions, or organization units;

(2) identifying the units that are outstanding in those respects; and

(3) identifying the employees whose personal efforts have caused their units to be outstanding in efficiency and economy of operations.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 380.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 1085	Oct. 28, 1949, ch. 782, § 205, 63 Stat. 957.
(b), (c)	5 U.S.C. 1151	Oct. 28, 1949, ch. 782, § 1001, 63 Stat. 971.

Subsection (a) is based in part on former sections 1081 and 1082, which are carried into section 5102.

In subsection (a)(1), the exception of "a Government controlled corporation" is added to preserve the application of this section to "corporations wholly owned by the United States". This is necessary as the defined term "Executive agency" includes the defined term "Government corporation" and the latter includes both Government owned and controlled corporations. Thus the exclusion of Government controlled corporations, which are distinct from wholly owned corporations, operates to preserve the application of this section to wholly owned corporations. The exception for the Inland Waterways Corporation in former section 1082(13) is omitted on authority of the Act of July 19, 1963, Pub. L. 88-67, 77 Stat. 81. The exceptions for Production Credit Corporations and Federal Intermediate Credit Banks in former section 1082 (18) and (19) are omitted as they are no longer "corporations wholly owned by the United States". Under the Farm Credit Act of 1956, 70 Stat. 659, the Production Credit Corporations were merged in the Federal Intermediate Credit Banks, and pursuant to that Act the Federal Intermediate Credit Banks have ceased to be corporations wholly owned by the United States.

In subsection (a)(7), the words "Panama Canal Company" are substituted for "Panama Railroad Company" on authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a) (2), 64 Stat. 1038.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and its functions transferred pursuant to chapter 73 of Title 42, The Public Health and Welfare. See section 5814 of Title 42.

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to this title. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget.

CROSS REFERENCES

Antidiscrimination in employment in administration of this section, see section 7154 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 7154 of this title and in title 10 sections 4540, 7212, 9540.

CHAPTER 5—ADMINISTRATIVE PROCEDURE

SUBCHAPTER I—GENERAL PROVISIONS

Sec.

500. Administrative practice; general provisions.
501. Advertising practice; restrictions.
502. Administrative practice; Reserves and National Guardsmen.
503. Witness fees and allowances.

SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

551. Definitions.
552. Public information; agency rules, opinions, orders, records, and proceedings.
552a. Records about individuals.[1]
552b. Open meetings.
553. Rule making.
554. Adjudications.
555. Ancillary matters.
556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision.
557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record.
558. Imposition of sanctions; determination of applications for licenses; suspension, revocation, and expiration of licenses.
559. Effect on other laws; effect of subsequent statute.

SUBCHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

571. Purpose.
572. Definitions.
573. Administrative Conference of the United States.
574. Powers and duties of the Conference.
575. Organization of the Conference.
576. Appropriations.

AMENDMENTS

1976—Pub. L. 94-409, § 3(b), Sept. 13, 1976, 90 Stat. 1246, added item 552b.

1974—Pub. L. 93-579, § 4, Dec. 31, 1974, 88 Stat. 1905, added item 552a.

1967—Pub. L. 90-83, § 1(1)(B), Sept. 11, 1967, 81 Stat. 195, added item 500.

Pub. L. 90-23, § 2, June 5, 1967, 81 Stat. 56, substituted "Public information; agency rules, opinions, orders, records and proceedings" for "Publication of information, rules, opinions, orders, and public records" in item 552.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 8902 of this title; title 2 section 437d; title 12 sections 1464, 1730, 1730a, 1786, 1818; title 15 section 687e; title 16 section 460aa-3; title 18 section 4218; title 21 section 360e; title 25 section 954; title 29 section 982; title 33 section 1224; title 39 sections 204, 410, 3001, 3603; title 43 section 1740; title 49 section 1655.

SUBCHAPTER I—GENERAL PROVISIONS

§ 500. Administrative practice; general provisions

(a) For the purpose of this section—

(1) "agency" has the meaning given it by section 551 of this title; and

(2) "State" means a State, a territory or possession of the United States including a Commonwealth, or the District of Columbia.

(b) An individual who is a member in good standing of the bar of the highest court of a State may represent a person before an agency on filing with the agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

---

[1] Analysis does not conform to section catchline.

(c) An individual who is duly qualified to practice as a certified public accountant in a State may represent a person before the Internal Revenue Service of the Treasury Department on filing with that agency a written declaration that he is currently qualified as provided by this subsection and is authorized to represent the particular person in whose behalf he acts.

(d) This section does not—

(1) grant or deny to an individual who is not qualified as provided by subsection (b) or (c) of this section the right to appear for or represent a person before an agency or in an agency proceeding;

(2) authorize or limit the discipline, including disbarment, of individuals who appear in a representative capacity before an agency;

(3) authorize an individual who is a former employee of an agency to represent a person before an agency when the representation is prohibited by statute or regulation; or

(4) prevent an agency from requiring a power of attorney as a condition to the settlement of a controversy involving the payment of money.

(e) Subsections (b)—(d) of this section do not apply to practice before the Patent Office with respect to patent matters that continue to be covered by chapter 3 (sections 31—33) of title 35.

(f) When a participant in a matter before an agency is represented by an individual qualified under subsection (b) or (c) of this section, a notice or other written communication required or permitted to be given the participant in the matter shall be given to the representative in addition to any other service specifically required by statute. When a participant is represented by more than one such qualified representative, service on any one of the representatives is sufficient.

(Added Pub. L. 90-83, § 1(1)(A), Sept. 11, 1967, 81 Stat. 195.)

HISTORICAL AND REVISION NOTES

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
500(a)	5 App.: 1014	Nov. 8, 1965, Pub. L. 89-332, § 3, 79 Stat. 1281.
500(b)—(e)	5 App.: 1012	Nov. 8, 1965, Pub. L. 89-332, § 1, 79 Stat. 1281.
500(f)	5 App.: 1013	Nov. 8, 1965, Pub. L. 89-332, § 2, 79 Stat. 1281.

The definition of "State" in subsection (a)(2) is supplied for convenience and is based on the words "State, possession, territory, Commonwealth, or District of Columbia" in subsections (a) and (b) of 5 App. U.S.C. 1012.

In subsection (d), the words "This section does not" are substituted for "nothing herein shall be construed".

In subsection (d)(3), the word "employee" is substituted for "officer or employee" to conform to the definition of "employee" in 5 U.S.C. 2105.

CHANGE OF NAME

The Patent Office, referred to in subsec. (e), was redesignated the Patent and Trademark Office by Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 38 section 3401.

§ 501. Advertising practice; restrictions

An individual, firm, or corporation practicing before an agency of the United States may not use the name of a Member of either House of Congress or of an individual in the service of the United States in advertising the business.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 381.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 101	Apr. 27, 1916, ch. 89, § 1, 39 Stat. 54.

The words "may not" are substituted for "It shall be unlawful for". The words "agency of the United States" are substituted for "any department or office of the Government". The words "an individual in the service of the United States" are substituted for "officer of the Government" in view of the definitions in sections 2104 and 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 502. Administrative practice; Reserves and National Guardsmen

Membership in a reserve component of the armed forces or in the National Guard does not prevent an individual from practicing his civilian profession or occupation before, or in connection with, an agency of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 381.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 30r(c) (2d sentence).	Aug. 10, 1956, ch. 10A1, § 29(c) (2d sentence), 70A Stat. 632.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 503. Witness fees and allowances

(a) For the purpose of this section, "agency" has the meaning given it by section 5721 of this title.

(b) A witness is entitled to the fees and allowances allowed by statute for witnesses in the courts of the United States when—

(1) he is subpenaed under section 304(a) of this title; or

(2) he is subpenaed to and appears at a hearing before an agency authorized by law to hold hearings and subpena witnesses to attend the hearings.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 381.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 95	R.S. § 185.
....	5 U.S.C. 95a	Aug. 2, 1946, ch. 744, § 10, 60 Stat. 809.

Former sections 95 and 95a are combined and restated for clarity and brevity. The words "or expenses in the case of Government officers and employees" are omitted as covered by section 1823 of title 28. The word "agency" is substituted for "department" and defined to conform to the definition of "department" in section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Government officers and employees, see sections 5515, 5537, 5751, and 6322 of this title.

SUBCHAPTER II—ADMINISTRATIVE PROCEDURE

POPULAR NAME

The provisions of this subchapter and chapter 7 of this title were originally enacted by act June 11, 1946, ch. 324, 60 Stat. 237, popularly known as the "Administrative Procedure Act". That Act was repealed as part of the general revision of this title by Pub. L. 89-554 and its provisions incorporated into this subchapter and chapter 7 hereof.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 556, 559, 572, 8902 of this title; title 7 sections 136d, 1642, 2049; title 12 sections 1749bbb-16, 1959; title 15 sections 78ggg, 266, 766, 1392, 1715; title 16 sections 460aa-3, 470q; title 17 App. sections 701, 803; title 19 section 1337; title 20 sections 107d-2, 641; title 21 sections 811, 824, 875; title 22 sections 277d-24, 1623; title 25 section 372-1, 954; title 28 section 509; title 29 sections 156, 164, 213, 481, 628, 792, 1137; title 30 sections 184, 722, 725, 737; title 31 sections 1062, 1262; title 39 section 3008; title 42 sections 263f, 1383, 6212, 6393; title 43 section 1624; title 47 sections 303, 310; title 49 sections 1355, 1655, 1672; title 50 App. section 463.

§ 551. Definitions

For the purpose of this subchapter—

(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States;

(D) the government of the District of Columbia;

or except as to the requirements of section 552 of this title—

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891-1902, and former section 1641(b)(2), of title 50, appendix;

(2) "person" includes an individual, partnership, corporation, association, or public or private organization other than an agency;

(3) "party" includes a person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party, in an agency proceeding, and a person or agency admitted by an agency as a party for limited purposes;

(4) "rule" means the whole or a part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of an agency and includes the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor or of valuations, costs, or accounting, or practices bearing on any of the foregoing;

(5) "rule making" means agency process for formulating, amending, or repealing a rule;

(6) "order" means the whole or a part of a final disposition, whether affirmative, negative, injunctive, or declaratory in form, of an agency in a matter other than rule making but including licensing;

(7) "adjudication" means agency process for the formulation of an order;

(8) "license" includes the whole or a part of an agency permit, certificate, approval, registration, charter, membership, statutory exemption or other form of permission;

(9) "licensing" includes agency process respecting the grant, renewal, denial, revocation, suspension, annulment, withdrawal, limitation, amendment, modification, or conditioning of a license;

(10) "sanction" includes the whole or a part of an agency—

(A) prohibition, requirement, limitation, or other condition affecting the freedom of a person;

(B) withholding of relief;

(C) imposition of penalty or fine;

(D) destruction, taking, seizure, or withholding of property;

(E) assessment of damages, reimbursement, restitution, compensation, costs, charges, or fees;

(F) requirement, revocation, or suspension of a license; or

(G) taking other compulsory or restrictive action;

(11) "relief" includes the whole or a part of an agency—

(A) grant of money, assistance, license, authority, exemption, exception, privilege, or remedy;

(B) recognition of a claim, right, immunity, privilege, exemption, or exception; or

(C) taking of other action on the application or petition of, and beneficial to, a person;

(12) "agency proceeding" means an agency process as defined by paragraphs (5), (7), and (9) of this section;

(13) "agency action" includes the whole or a part of an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act; and

(14) "ex parte communication" means an oral or written communication not on the public record with respect to which reasonable prior notice to all parties is not given, but it shall not include requests for status reports on any matter or proceeding covered by this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 381; Pub. L. 94-409, § 4(b), Sept. 13, 1976, 90 Stat. 1247.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)	5 U.S.C. 1001(a)	June 11, 1946, ch. 324, § 2(a), 60 Stat. 237. Aug. 8, 1946, ch. 870, § 302, 60 Stat. 918. Aug. 10, 1946, ch. 951, § 601, 60 Stat. 993. Mar. 31, 1947, ch. 30, § 6(a), 61 Stat. 37. June 30, 1947, ch. 163, § 210, 61 Stat. 201. Mar. 30, 1948, ch. 161, § 301, 62 Stat. 99.
(2)-(13)	5 U.S.C. 1001 (less (a))	June 11, 1946, ch. 324, § 2 (less (a)), 60 Stat. 237.

In paragraph (1), the sentence "Nothing in this Act shall be construed to repeal delegations of authority as provided by law," is omitted as surplusage since there is nothing in the Act which could reasonably be so construed.

In paragraph (1)(G), the words "or naval" are omitted as included in "military".

In paragraph (1)(H), the words "functions which by law expire on the termination of present hostilities, within any fixed period thereafter, or before July 1, 1947" are omitted as executed. Reference to the "Selective Training and Service Act of 1940" is omitted as that Act expired Mar. 31, 1947. Reference to the "Sugar Control Extension Act of 1947" is omitted as that Act expired on Mar. 31, 1948. References to the "Housing and Rent Act of 1947, as amended" and the "Veterans' Emergency Housing Act of 1946" have been consolidated as they are related. The reference to former section 1641(b)(2) of title 50, appendix, is retained notwithstanding its repeal by § 111(a)(1) of the Act of Sept. 21, 1961, Pub. L. 87-256, 75 Stat. 538, since § 111(c) of the Act provides that a reference in other Acts to a provision of law repealed by § 111(a) shall be considered to be a reference to the appropriate provisions of Pub. L. 87-256.

In paragraph (2), the words "of any character" are omitted as surplusage.

In paragraph (3), the words "and a person or agency admitted by an agency as a party for limited purposes" are substituted for "but nothing herein shall be construed to prevent an agency from admitting any person or agency as a party for limited purposes".

In paragraph (9), a comma is supplied between the words "limitation" and "amendment" to correct an editorial error of omission.

In paragraph (10)(C), the words "of any form" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Codification

Section 551 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2242 of Title 7, Agriculture.

Amendments

1976—Par. (14). Pub. L. 94-409 added par. (14).

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-409 effective 180 days after Sept. 13, 1976, see section 6 of Pub. L. 94-409, set out as a note under section 552b of this title.

Cross References

Administrative Procedure Act
- Applicability to—
  - Age Discrimination in Employment Act of 1967, issuance of rules and regulations and establishment of exemptions, see section 628 of Title 29, Labor.
  - Atomic Energy Act, all agency action taken under, see section 2231 of Title 42, The Public Health and Welfare.
  - Atomic Energy Commission, licenses, permits, and awards of, see section 2239 of Title 42.
  - District of Columbia Administrative Procedure Act, see D.C.Code § 1-1501 et seq.
  - Fair Labor Standards Act exemptions, promulgation of regulations covering employment in executive, administrative, professional, or outside salesman capacity, see section 213 of Title 29, Labor.
  - Farm Labor Contractor Registration Act, administrative proceedings conducted pursuant to authority contained in, see section 2049 of Title 7, Agriculture.
  - Federal Aviation Administrator, exercise of rulemaking authority of, see section 1348 of Title 49, Transportation.
  - Federal Communications Act, hearings generally, see section 409 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.
  - Helium Act, agency action taken under, see section 167h of Title 50, War and National Defense.
  - Motor vehicle safety standards, orders of Secretary of Commerce establishing, amending, or revoking, see section 1392 of Title 15, Commerce and Trade.
  - National Labor Relations Act, authority of National Labor Relations Board to make, amend, and rescind rules and regulations, see section 156 of Title 29, Labor.
  - Rules, regulations, and orders of Federal departments and agencies issued to prohibit exclusion of persons from participation in Federally assisted programs because of race, color, or national origin, see section 2000d-2 of Title 42, The Public Health and Welfare.
  - Secretary of Transportation, revocation of seamen's documents by, see section 239b of Title 46, Shipping.
  - Subversive Activities Control Board, exercise of functions of and conduct of proceedings by, see section 795 of Title 50, War and National Defense.
  - Uniform Time Act of 1966, all proceedings under, see section 266 of Title 15, Commerce and Trade.
  - Walsh-Healey Act, see section 43a of Title 41, Public Contracts.
- Inapplicability to—
  - Alteration of bridges over navigable waters, hearings and other procedures in connection with, see section 524 of Title 33, Navigation and Navigable Waters.
  - Chamizal boundary settlement program, see section 277d-24 of Title 22, Foreign Relations and Intercourse.
  - Civil Defense, period of emergency, exercise of functions and duties in connection with, see section 2295 of Title 50 App., War and National Defense.
  - Export controls, functions exercised in connection with, see section 2407 of Title 50 App.
  - International Wheat Agreement Act of 1949, functions exercised under, see section 1642 of Title 7, Agriculture.

Major mine disasters, orders issued under program for prevention of, see section 956 of Title 30, Mineral Lands and Mining.

National Security Agency, use or exercise of authority of the Secretary of Defense, Director, or boards of appraisal in employment, detail, or assignment of personnel by, see section 835 of Title 50, War and National Defense.

Renegotiation of defense contracts, exercise of functions in connection with, see section 1221 of Title 50 App., War and National Defense.

Universal Military Training and Service Act, performance of functions under, see section 463 of Title 50 App.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 500, 552, 572, 701, 3344 of this title; title 2 sections 501, 502; title 15 sections 78d-1, 78w, 766, 2053; title 26 sections 6103, 9041; title 30 section 956; title 42 sections 6107, 6393.

§ 552. Public information; agency rules, opinions, orders, records, and proceedings

(a) Each agency shall make available to the public information as follows:

(1) Each agency shall separately state and currently publish in the Federal Register for the guidance of the public—

(A) descriptions of its central and field organization and the established places at which, the employees (and in the case of a uniformed service, the members) from whom, and the methods whereby, the public may obtain information, make submittals or requests, or obtain decisions;

(B) statements of the general course and method by which its functions are channeled and determined, including the nature and requirements of all formal and informal procedures available;

(C) rules of procedure, descriptions of forms available or the places at which forms may be obtained, and instructions as to the scope and contents of all papers, reports, or examinations;

(D) substantive rules of general applicability adopted as authorized by law, and statements of general policy or interpretations of general applicability formulated and adopted by the agency; and

(E) each amendment, revision, or repeal of the foregoing.

Except to the extent that a person has actual and timely notice of the terms thereof, a person may not in any manner be required to resort to, or be adversely affected by, a matter required to be published in the Federal Register and not so published. For the purpose of this paragraph, matter reasonably available to the class of persons affected thereby is deemed published in the Federal Register when incorporated by reference therein with the approval of the Director of the Federal Register.

(2) Each agency, in accordance with published rules, shall make available for public inspection and copying—

(A) final opinions, including concurring and dissenting opinions, as well as orders, made in the adjudication of cases;

(B) those statements of policy and interpretations which have been adopted by the agency and are not published in the Federal Register; and

(C) administrative staff manuals and instructions to staff that affect a member of the public;

unless the materials are promptly published and copies offered for sale. To the extent required to prevent a clearly unwarranted invasion of personal privacy, an agency may delete identifying details when it makes available or publishes an opinion, statement of policy, interpretation, or staff manual or instruction. However, in each case the justification for the deletion shall be explained fully in writing. Each agency shall also maintain and make available for public inspection and copying current indexes providing identifying information for the public as to any matter issued, adopted, or promulgated after July 4, 1967, and required by this paragraph to be made available or published. Each agency shall promptly publish, quarterly or more frequently, and distribute (by sale or otherwise) copies of each index or supplements thereto unless it determines by order published in the Federal Register that the publication would be unnecessary and impracticable, in which case the agency shall nonetheless provide copies of such index on request at a cost not to exceed the direct cost of duplication. A final order, opinion, statement of policy, interpretation, or staff manual or instruction that affects a member of the public may be relied on, used, or cited as precedent by an agency against a party other than an agency only if—

(i) it has been indexed and either made available or published as provided by this paragraph; or

(ii) the party has actual and timely notice of the terms thereof.

(3) Except with respect to the records made available under paragraphs (1) and (2) of this subsection, each agency, upon any request for records which (A) reasonably describes such records and (B) is made in accordance with published rules stating the time, place, fees (if any), and procedures to be followed, shall make the records promptly available to any person.

(4)(A) In order to carry out the provisions of this section, each agency shall promulgate regulations, pursuant to notice and receipt of public comment, specifying a uniform schedule of fees applicable to all constituent units of such agency. Such fees shall be limited to reasonable standard charges for document search and duplication and provide for recovery of only the direct costs of such search and duplication. Documents shall be furnished without charge or at a reduced charge where the agency determines that waiver or reduction of the fee is in the public interest because furnishing the information can be considered as primarily benefiting the general public.

(B) On complaint, the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, has jurisdiction to enjoin the agency from withholding agency records and to order the production of any agency records improperly withheld from the complainant. In such a case the court shall determine the matter de novo, and may examine the contents of such agency records in camera to determine whether such records or any part thereof shall be withheld under any of the exemptions set forth in subsection (b) of this section, and the burden is on the agency to sustain its action.

(C) Notwithstanding any other provision of law, the defendant shall serve an answer or otherwise plead to any complaint made under this subsection within thirty days after service upon the defendant of the pleading in which such complaint is made, unless the court otherwise directs for good cause shown.

(D) Except as to cases the court considers of greater importance, proceedings before the district court, as authorized by this subsection, and appeals therefrom, take precedence on the docket over all cases and shall be assigned for hearing and trial or for argument at the earliest practicable date and expedited in every way.

(E) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this section in which the complainant has substantially prevailed.

(F) Whenever the court orders the production of any agency records improperly withheld from the complainant and assesses against the United States reasonable attorney fees and other litigation costs, and the court additionally issues a written finding that the circumstances surrounding the withholding raise questions whether agency personnel acted arbitrarily or capriciously with respect to the withholding, the Civil Service Commission shall promptly initiate a proceeding to determine whether disciplinary action is warranted against the officer or employee who was primarily responsible for the withholding. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority of the agency concerned and shall send copies of the findings and recommendations to the officer or employee or his representative. The administrative authority shall take the corrective action that the Commission recommends.

(G) In the event of noncompliance with the order of the court, the district court may punish for contempt the responsible employee, and in the case of a uniformed service, the responsible member.

(5) Each agency having more than one member shall maintain and make available for public inspection a record of the final votes of each member in every agency proceeding.

(6)(A) Each agency, upon any request for records made under paragraph (1), (2), or (3) of this subsection, shall—

(i) determine within ten days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of any such request whether to comply with such request and shall immediately notify the person making such request of such determination and the reasons therefor, and of the right of such person to appeal to the head of the agency any adverse determination; and

(ii) make a determination with respect to any appeal within twenty days (excepting Saturdays, Sundays, and legal public holidays) after the receipt of such appeal. If on appeal the denial of the request for records is in whole or in part upheld, the agency shall notify the person making such request of the provisions for judicial review of that determination under paragraph (4) of this subsection.

(B) In unusual circumstances as specified in this subparagraph, the time limits prescribed in either clause (i) or clause (ii) of subparagraph (A) may be extended by written notice to the person making such request setting forth the reasons for such extension and the date on which a determination is expected to be dispatched. No such notice shall specify a date that would result in an extension for more than ten working days. As used in this subparagraph, "unusual circumstances" means, but only to the extent reasonably necessary to the proper processing of the particular request—

(i) the need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) the need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) the need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(C) Any person making a request to any agency for records under paragraph (1), (2), or (3) of this subsection shall be deemed to have exhausted his administrative remedies with respect to such request if the agency fails to comply with the applicable time limit provisions of this paragraph. If the Government can show exceptional circumstances exist and that the agency is exercising due diligence in responding to the request, the court may retain jurisdiction and allow the agency additional time to complete its review of the records. Upon any determination by an agency to comply with a request for records, the records shall be made promptly available to such person making such request. Any notification of denial of any request for records under this subsection shall set forth the names and titles or positions of each person responsible for the denial of such request.

(b) This section does not apply to matters that are—

(1)(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order;

(2) related solely to the internal personnel rules and practices of an agency;

(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;

(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;

(7) investigatory records compiled for law enforcement purposes, but only to the extent that the production of such records would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or

(9) geological and geophysical information and data, including maps, concerning wells.

Any reasonably segregable portion of a record shall be provided to any person requesting such record after deletion of the portions which are exempt under this subsection.

(c) This section does not authorize withholding of information or limit the availability of records to the public, except as specifically stated in this section. This section is not authority to withold information from Congress.

(d) On or before March 1 of each calendar year, each agency shall submit a report covering the preceding calendar year to the Speaker of the House of Representatives and President of the Senate for referral to the appropriate committees of the Congress. The report shall include—

(1) the number of determinations made by such agency not to comply with requests for records made to such agency under subsection (a) and the reasons for each such determination;

(2) the number of appeals made by persons under subsection (a)(6), the result of such appeals, and the reason for the action upon each appeal that results in a denial of information;

(3) the names and titles or positions of each person responsible for the denial of records requested under this section, and the number of instances of participation for each;

(4) the results of each proceeding conducted pursuant to subsection (a)(4)(F), including a report of the disciplinary action taken against the officer or employee who was primarily responsible for improperly withholding records or an explanation of why disciplinary action was not taken;

(5) a copy of every rule made by such agency regarding this section;

(6) a copy of the fee schedule and the total amount of fees collected by the agency for making records available under this section; and

(7) such other information as indicates efforts to administer fully this section.

The Attorney General shall submit an annual report on or before March 1 of each calendar year which shall include for the prior calendar year a listing of the number of cases arising under this section, the exemption involved in each case, the disposition of such case, and the cost, fees, and penalties assessed under subsections (a)(4)(E), (F), and (G). Such report shall also include a description of the efforts undertaken by the Department of Justice to encourage agency compliance with this section.

(e) For purposes of this section, the term "agency" as defined in section 551(1) of this title includes any executive department, military department, Government corporation, Government controlled corporation, or other establishment in the executive branch of the Government (including the Executive Office of the President), or any independent regulatory agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 383; Pub. L. 90-23, § 1, June 5, 1967, 81 Stat. 54; Pub. L. 93-502, §§ 1-3, Nov. 21, 1974, 88 Stat. 1561-1564; Pub. L. 94-409, § 5(b), Sept. 13, 1976, 90 Stat. 1247.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1002	June 11, 1946, ch. 324, § 3, 60 Stat. 238.

In subsection (b)(3), the words "formulated and" are omitted as surplusage. In the last sentence of subsection (b), the words "in any manner" are omitted as surplusage since the prohibition is all inclusive.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Section 552 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2243 of Title 7, Agriculture.

AMENDMENTS

1976—Subsec. (b)(3). Pub. L. 94-409 added provision excluding section 552b of this title from applicability of exemption from disclosure and provision setting forth conditions for statute specifically exempting disclosure.

1974—Subsec. (a)(2). Pub. L. 93-502, § 1(a), substituted provisions relating to maintenance and availability of current indexes, for provisions relating to maintenance and availability of a current index, and added provisions relating to publication and distribution of copies of indexes or supplements thereto.

Subsec. (a)(3). Pub. L. 93-502, § 1(b)(1), substituted provisions requiring requests to reasonably describe records for provisions requiring requests, for identifiable records, and struck out provisions setting forth procedures to enjoin agencies from withholding the requested records and ordering their production.

Subsec. (a)(4). Pub. L. 93-502, § 1(b)(2), added subsec. (a)(4). Former subsec. (a)(4) redesignated (a)(5).

Subsec. (a)(5). Pub. L. 93-502, § 1(b)(2), redesignated former subsec. (a)(4) as (a)(5).

Subsec. (a)(6). Pub. L. 93-502, § 1(c), added subsec. (a)(6).

Subsec. (b)(1). Pub. L. 93-502, § 2(a), designated existing provisions as cl. (A), and, as so designated, substituted "authorized under criteria established by an" for "required by", and added cl. (B).

Subsec. (b)(7). Pub. L. 93-502, § 2(b), substituted provisions relating to exemption for investigatory records compiled for law enforcement purposes, for provisions relating to exemption for investigatory files compiled for law enforcement purposes.

Subsec. (b), foll. par. (9). Pub. L. 93-502, § 2(c), added provision relating to availability of segregable portion of records.

Subsecs. (d), (e). Pub. L. 93-502, § 3, added subsecs. (d) and (e).

1967—Subsec. (a). Pub. L. 90-23 substituted the introductory statement requiring every agency to make available to the public certain information for former introductory provision excepting from disclosure (1) any function of the United States requiring secrecy in the public interest or (2) any matter relating to internal management of an agency, now covered in subsec. (b) (1) and (2) of this section.

Subsec. (a)(1). Pub. L. 90-23 incorporated provisions of: former subsec. (b)(1) in (A), inserting requirement of publication of names of officers as sources of information and provision for public to obtain decisions, and deleting publication requirement for delegations by the agency of final authority; former subsec. (b)(2), introductory part, in (B); former subsec. (b)(2), concluding part, in (C), inserting publication requirement for rules of procedure and descriptions of forms available or the places at which forms may be obtained; former subsec. (b)(3), introductory part, in (D), inserting requirement of general applicability of substantive rules and interpretations, added clause (E), substituted exemption of any person from failure to resort to any matter or from being adversely affected by any matter required to be published in the Federal Register but not so published for former subsec. (b)(3), concluding part, excepting from publication rules addressed to and served upon named persons in accordance with laws and final sentence reading "A person may not be required to resort to organization or procedure not so published" and added provision deeming matter, which is reasonably available, as published in the Federal Register when such matter is incorporated by reference in the Federal Register with the approval of its Director.

Subsec. (a)(2). Pub. L. 90-23 incorporated provisions of former subsec. (c), provided for public copying of records, eliminated requirement of agency publication of final opinions or orders and authority for secrecy and withholding of opinions and orders required for good cause to be held confidential and not cited as precedents, latter provision now superseded by subsec. (b) of this section, designated existing subsec. (c) as clause (A), including therein provision for availability of concurring and dissenting opinions, added provisions for availability of policy statements and interpretations in clause (B) and staff manuals and instructions in clause (C), deletion of personal identifications from records to protect personal privacy with written justification therefor, and provision for indexing and prohibition of use of records not indexed against any private party without actual and timely notice of the terms thereof.

Subsec. (a)(3). Pub. L. 90-23 incorporated provisions of former subsec. (d) and substituted provisions requiring identifiable agency records to be made available to any person upon request and compliance with rules as to time, place, and procedure for inspection, and payment of fees and provisions for federal district court proceedings de novo for enforcement by contempt of noncompliance with court's orders with the burden on the agency and docket precedence for such proceedings for former provisions requiring matters of official record to be made available to persons properly and directly concerned except information held confidential for good cause shown, the latter provision now superseded by subsec. (b) of this section.

Subsec. (a)(4). Pub. L. 90-23 added subsec. (a)(4).

Subsec. (b). Pub. L. 90-23 added subsec. (b) which superseded provisions excepting from disclosure any function of the United States requiring secrecy in the public interest or any matter relating to internal management of an agency, formerly contained in former subsec. (a), final opinions or orders required for good cause to be held confidential and not cited as precedents, formerly contained in subsec. (c), and information held confidential for good cause found, contained in former subsec. (d) of this section.

Subsec. (c). Pub. L. 90-23 added subsec. (c).

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-409 effective 180 days after Sept. 13, 1976, see section 6 of Pub. L. 94-409, set out as a note under section 552b of this title.

Effective Date of 1974 Amendment

Section 4 of Pub. L. 93-502 provided that: "The amendments made by this Act [amending this section] shall take effect on the ninetieth day beginning after the date of enactment of this Act [Nov. 21, 1974]."

Effective Date of 1967 Amendment

Section 4 of Pub. L. 90-23 provided that: "This Act [amending this section] shall be effective July 4, 1967, or on the date of enactment [June 5, 1967], whichever is later."

Cross References

Federal Register Act, see section 1502 et seq. of Title 44, Public Printing and Documents.

Section applicable to functions exercised under International Wheat Agreement Act of 1949, see section 1642 of Title 7, Agriculture.

Section Referred to in Other Sections

This section is referred to in sections 551, 552a, 552b of this title; title 2 sections 472, 501, 502; title 7 section 1642; title 15 sections 18a, 78m, 78w, 78x, 78ggg, 719d, 766, 773, 796, 1314, 1418, 2055, 2217, 2613; title 16 sections 1100b-5, 1402; title 19 section 160; title 21 sections 360d, 360j, 379; title 26 section 6110; title 31 section 1052; title 33 section 1513; title 39 section 410; title 42 sections 2996d, 3527, 4332, 5916, 6272-6274, 6346; title 45 section 546; title 46 section 1463; title 49 sections 1357, 1805, 1806, 1905; title 50 App. sections 463, 2158a.

§ 552a. Records maintained on individuals

(a) Definitions

For purposes of this section—

(1) the term "agency" means agency as defined in section 552(e) of this title;

(2) the term "individual" means a citizen of the United States or an alien lawfully admitted for permanent residence;

(3) the term "maintain" includes maintain, collect, use, or disseminate;

(4) the term "record" means any item, collection, or grouping of information about an individual that is maintained by an agency, including, but not limited to, his education, financial transactions, medical history, and criminal or employment history and that contains his name, or the identifying number, symbol, or other identifying particular assigned to the individual, such as a finger or voice print or a photograph;

(5) the term "system of records" means a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual;

(6) the term "statistical record" means a record in a system of records maintained for statistical research or reporting purposes only and not used in whole or in part in making any determination about an identifiable individual, except as provided by section 8 of title 13; and

(7) the term "routine use" means, with respect to the disclosure of a record, the use of such record for a purpose which is compatible with the purpose for which it was collected.

(b) Conditions of disclosure

No agency shall disclose any record which is contained in a system of records by any means of communication to any person, or to another agency, except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains, unless disclosure of the record would be—

(1) to those officers and employees of the agency which maintains the record who have a need for the record in the performance of their duties;

(2) required under section 552 of this title;

(3) for a routine use as defined in subsection (a)(7) of this section and described under subsection (e)(4)(D) of this section;

(4) to the Bureau of the Census for purposes of planning or carrying out a census or survey or related activity pursuant to the provisions of title 13;

(5) to a recipient who has provided the agency with advance adequate written assurance that the record will be used solely as a statistical research or reporting record, and the record is to be transferred in a form that is not individually identifiable;

(6) to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, or for evaluation by the Administrator of General Services or his designee to determine whether the record has such value;

(7) to another agency or to an instrumentality of any governmental jurisdiction within or under the control of the United States for a civil or criminal law enforcement activity if the activity is authorized by law, and if the head of the agency or instrumentality has made a written request to the agency which maintains the record specifying the particular portion desired and the law enforcement activity for which the record is sought;

(8) to a person pursuant to a showing of compelling circumstances affecting the health or safety of an individual if upon such disclosure notification is transmitted to the last known address of such individual;

(9) to either House of Congress, or, to the extent of matter within its jurisdiction, any committee or subcommittee thereof, any joint committee of Congress or subcommittee of any such joint committee;

(10) to the Comptroller General, or any of his authorized representatives, in the course of the performance of the duties of the General Accounting Office; or

(11) pursuant to the order of a court of competent jurisdiction.

(c) Accounting of certain disclosures

Each agency, with respect to each system of records under its control shall—

(1) except for disclosures made under subsections (b)(1) or (b)(2) of this section, keep an accurate accounting of—

(A) the date, nature, and purpose of each disclosure of a record to any person or to another agency made under subsection (b) of this section; and

(B) the name and address of the person or agency to whom the disclosure is made;

(2) retain the accounting made under paragraph (1) of this subsection for at least five years or the life of the record, whichever is longer, after the disclosure for which the accounting is made;

(3) except for disclosures made under subsection (b)(7) of this section, make the accounting made under paragraph (1) of this subsection available to the individual named in the record at his request; and

(4) inform any person or other agency about any correction or notation of dispute made by the agency in accordance with subsection (d) of this section of any record that has been disclosed to the person or agency if an accounting of the disclosure was made.

(d) Access to records

Each agency that maintains a system of records shall—

(1) upon request by any individual to gain access to his record or to any information pertaining to him which is contained in the system, permit him and upon his request, a person of his own choosing to accompany him, to review the record and have a copy made of all or any portion thereof in a form comprehensible to him, except that the agency may require the individual to furnish a written statement authorizing discussion of that individual's record in the accompanying person's presence;

(2) permit the individual to request amendment of a record pertaining to him and—

(A) not later than 10 days (excluding Saturdays, Sundays, and legal public holidays) after the date of receipt of such request, acknowledge in writing such receipt; and

(B) promptly, either—

(i) make any correction of any portion thereof which the individual believes is not accurate, relevant, timely, or complete; or

(ii) inform the individual of its refusal to amend the record in accordance with his request, the reason for the refusal, the procedures established by the agency for the individual to request a review of that refusal by the head of the agency or an officer designated by the head of the agency, and the name and business address of that official;

(3) permit the individual who disagrees with the refusal of the agency to amend his record to request a review of such refusal, and not later than 30 days (excluding Saturdays, Sundays, and legal public holidays) from the date on which the individual requests such review, complete such review and make a final determination unless, for good cause shown, the

head of the agency extends such 30-day period; and if, after his review, the reviewing official also refuses to amend the record in accordance with the request, permit the individual to file with the agency a concise statement setting forth the reasons for his disagreement with the refusal of the agency, and notify the individual of the provisions for judicial review of the reviewing official's determination under subsection (g)(1)(A) of this section;

(4) in any disclosure, containing information about which the individual has filed a statement of disagreement, occurring after the filing of the statement under paragraph (3) of this subsection, clearly note any portion of the record which is disputed and provide copies of the statement and, if the agency deems it appropriate, copies of a concise statement of the reasons of the agency for not making the amendments requested, to persons or other agencies to whom the disputed record has been disclosed; and

(5) nothing in this section shall allow an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(e) Agency requirements

Each agency that maintains a system of records shall—

(1) maintain in its records only such information about an individual as is relevant and necessary to accomplish a purpose of the agency required to be accomplished by statute or by executive order of the President;

(2) collect information to the greatest extent practicable directly from the subject individual when the information may result in adverse determinations about an individual's rights, benefits, and privileges under Federal programs;

(3) inform each individual whom it asks to supply information, on the form which it uses to collect the information or on a separate form that can be retained by the individual—

(A) the authority (whether granted by statute, or by executive order of the President) which authorizes the solicitation of the information and whether disclosure of such information is mandatory or voluntary;

(B) the principal purpose or purposes for which the information is intended to be used;

(C) the routine uses which may be made of the information, as published pursuant to paragraph (4)(D) of this subsection; and

(D) the effects on him, if any, of not providing all or any part of the requested information;

(4) subject to the provisions of paragraph (11) of this subsection, publish in the Federal Register at least annually a notice of the existence and character of the system of records, which notice shall include—

(A) the name and location of the system;

(B) the categories of individuals on whom records are maintained in the system;

(C) the categories of records maintained in the system;

(D) each routine use of the records contained in the system, including the categories of users and the purpose of such use;

(E) the policies and practices of the agency regarding storage, retrievability, access controls, retention, and disposal of the records;

(F) the title and business address of the agency official who is responsible for the system of records;

(G) the agency procedures whereby an individual can be notified at his request if the system of records contains a record pertaining to him;

(H) the agency procedures whereby an individual can be notified at his request how he can gain access to any record pertaining to him contained in the system of records, and how he can contest its content; and

(I) the categories of sources of records in the system;

(5) maintain all records which are used by the agency in making any determination about any individual with such accuracy, relevance, timeliness, and completeness as is reasonably necessary to assure fairness to the individual in the determination;

(6) prior to disseminating any record about an individual to any person other than an agency, unless the dissemination is made pursuant to subsection (b)(2) of this section, make reasonable efforts to assure that such records are accurate, complete, timely, and relevant for agency purposes;

(7) maintain no record describing how any individual exercises rights guaranteed by the First Amendment unless expressly authorized by statute or by the individual about whom the record is maintained or unless pertinent to and within the scope of an authorized law enforcement activity;

(8) make reasonable efforts to serve notice on an individual when any record on such individual is made available to any person under compulsory legal process when such process becomes a matter of public record;

(9) establish rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of this section, including any other rules and procedures adopted pursuant to this section and the penalties for noncompliance;

(10) establish appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained; and

(11) at least 30 days prior to publication of information under paragraph (4)(D) of this subsection, publish in the Federal Register notice of any new use or intended use of the information in the system, and provide an opportunity for interested persons to submit written data, views, or arguments to the agency.

(f) Agency rules

In order to carry out the provisions of this section, each agency that maintains a system of records shall promulgate rules, in accordance with the requirements (including general notice) of section 553 of this title, which shall—

(1) establish procedures whereby an individual can be notified in response to his request if any system of records named by the individual contains a record pertaining to him;

(2) define reasonable times, places, and requirements for identifying an individual who requests his record or information pertaining to him before the agency shall make the record or information available to the individual;

(3) establish procedures for the disclosure to an individual upon his request of his record or information pertaining to him, including special procedure, if deemed necessary, for the disclosure to an individual of medical records, including psychological records pertaining to him;

(4) establish procedures for reviewing a request from an individual concerning the amendment of any record or information pertaining to the individual, for making a determination on the request, for an appeal within the agency of an initial adverse agency determination, and for whatever additional means may be necessary for each individual to be able to exercise fully his rights under this section; and

(5) establish fees to be charged, if any, to any individual for making copies of his record, excluding the cost of any search for and review of the record.

The Office of the Federal Register shall annually compile and publish the rules promulgated under this subsection and agency notices published under subsection (e)(4) of this section in a form available to the public at low cost.

(g)(1) Civil remedies

Whenever any agency

(A) makes a determination under subsection (d)(3) of this section not to amend an individual's record in accordance with his request, or fails to make such review in conformity with that subsection;

(B) refuses to comply with an individual request under subsection (d)(1) of this section;

(C) fails to maintain any record concerning any individual with such accuracy, relevance, timeliness, and completeness as is necessary to assure fairness in any determination relating to the qualifications, character, rights, or opportunities of, or benefits to the individual that may be made on the basis of such record, and consequently a determination is made which is adverse to the individual; or

(D) fails to comply with any other provision of this section, or any rule promulgated thereunder, in such a way as to have an adverse effect on an individual,

the individual may bring a civil action against the agency, and the district courts of the United States shall have jurisdiction in the matters under the provisions of this subsection.

(2)(A) In any suit brought under the provisions of subsection (g)(1)(A) of this section, the court may order the agency to amend the individual's record in accordance with his request or in such other way as the court may direct. In such a case the court shall determine the matter de novo.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(3)(A) In any suit brought under the provisions of subsection (g)(1)(B) of this section, the court may enjoin the agency from withholding the records and order the production to the complainant of any agency records improperly withheld from him. In such a case the court shall determine the matter de novo, and may examine the contents of any agency records in camera to determine whether the records or any portion thereof may be withheld under any of the exemptions set forth in subsection (k) of this section, and the burden is on the agency to sustain its action.

(B) The court may assess against the United States reasonable attorney fees and other litigation costs reasonably incurred in any case under this paragraph in which the complainant has substantially prevailed.

(4) In any suit brought under the provisions of subsection (g)(1)(C) or (D) of this section in which the court determines that the agency acted in a manner which was intentional or willful, the United States shall be liable to the individual in an amount equal to the sum of—

(A) actual damages sustained by the individual as a result of the refusal or failure, but in no case shall a person entitled to recovery receive less than the sum of $1,000; and

(B) the costs of the action together with reasonable attorney fees as determined by the court.

(5) An action to enforce any liability created under this section may be brought in the district court of the United States in the district in which the complainant resides, or has his principal place of business, or in which the agency records are situated, or in the District of Columbia, without regard to the amount in controversy, within two years from the date on which the cause of action arises, except that where an agency has materially and willfully misrepresented any information required under this section to be disclosed to an individual and the information so misrepresented is material to establishment of the liability of the agency to the individual under this section, the action may be brought at any time within two years after discovery by the individual of the misrepresentation. Nothing in this section shall be construed to authorize any civil action by reason of any injury sustained as the result of a disclosure of a record prior to September 27, 1975.

(h) Rights of legal guardians

For the purposes of this section, the parent of any minor, or the legal guardian of any individual who has been declared to be incompetent due to physical or mental incapacity or age by a court of competent jurisdiction, may act on behalf of the individual.

(i)(1) Criminal penalties

Any officer or employee of an agency, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by this section or by rules or regulations established thereunder, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

(2) Any officer or employee of any agency who willfully maintains a system of records without meeting the notice requirements of subsection (e)(4) of this section shall be guilty of a misdemeanor and fined not more than $5,000.

(3) Any person who knowingly and willfully requests or obtains any record concerning an individual from an agency under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000.

(j) General exemptions

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from any part of this section except subsections (b), (c)(1) and (2), (e)(4)(A) through (F), (e)(6), (7), (9), (10), and (11), and (i) if the system of records is—

(1) maintained by the Central Intelligence Agency; or

(2) maintained by an agency or component thereof which performs as its principal function any activity pertaining to the enforcement of criminal laws, including police efforts to prevent, control, or reduce crime or to apprehend criminals, and the activities of prosecutors, courts, correctional, probation, pardon, or parole authorities, and which consists of (A) information compiled for the purpose of identifying individual criminal offenders and alleged offenders and consisting only of identifying data and notations of arrests, the nature and disposition of criminal charges, sentencing, confinement, release, and parole and probation status; (B) information compiled for the purpose of a criminal investigation, including reports of informants and investigators, and associated with an indentifiable individual; or (C) reports identifiable to an individual compiled at any stage of the process of enforcement of the criminal laws from arrest or indictment through release from supervision.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(k) Specific exemptions

The head of any agency may promulgate rules, in accordance with the requirements (including general notice) of sections 553(b)(1), (2), and (3), (c), and (e) of this title, to exempt any system of records within the agency from subsections (c)(3), (d), (e)(1), (e)(4)(G), (H), and (I) and (f) of this section if the system of records is—

(1) subject to the provisions of section 552(b)(1) of this title;

(2) investigatory material compiled for law enforcement purposes, other than material within the scope of subsection (j)(2) of this section: *Provided, however,* That if any individual is denied any right, privilege, or benefit that he would otherwise be entitled by Federal law, or for which he would otherwise be eligible, as a result of the maintenance of such material, such material shall be provided to such individual, except to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(3) maintained in connection with providing protective services to the President of the United States or other individuals pursuant to section 3056 of title 18;

(4) required by statute to be maintained and used solely as statistical records;

(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment, military service, Federal contracts, or access to classified information, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence;

(6) testing or examination material used solely to determine individual qualifications for appointment or promotion in the Federal service the disclosure of which would compromise the objectivity or fairness of the testing or examination process; or

(7) evaluation material used to determine potential for promotion in the armed services, but only to the extent that the disclosure of such material would reveal the identity of a source who furnished information to the Government under an express promise that the identity of the source would be held in confidence, or, prior to the effective date of this section, under an implied promise that the identity of the source would be held in confidence.

At the time rules are adopted under this subsection, the agency shall include in the statement required under section 553(c) of this title, the reasons why the system of records is to be exempted from a provision of this section.

(*l*) (1) Archival records

Each agency record which is accepted by the Administrator of General Services for storage, processing, and servicing in accordance with section 3103 of title 44 shall, for the purposes of this section, be considered to be maintained by the agency which deposited the record and shall be subject to the provisions of this section. The Administrator of General Services shall not disclose the record except to the agency which maintains the record, or under rules established by that agency which are not inconsistent with the provisions of this section.

(2) Each agency record pertaining to an identifiable individual which was transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, prior to the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall not be subject to the provisions of this section, except that a statement generally describing such records (modeled after the requirements relating to records subject to subsections (e)(4)(A) through (G) of this section) shall be published in the Federal Register.

(3) Each agency record pertaining to an identifiable individual which is transferred to the National Archives of the United States as a record which has sufficient historical or other value to warrant its continued preservation by the United States Government, on or after the effective date of this section, shall, for the purposes of this section, be considered to be maintained by the National Archives and shall be exempt from the requirements of this section except subsections (e)(4)(A) through (G) and (e)(9) of this section.

(m) Government contractors

When an agency provides by a contract for the operation by or on behalf of the agency of a system of records to accomplish an agency function, the agency shall, consistent with its authority, cause the requirements of this section to be applied to such system. For purposes of subsection (i) of this section any such contractor and any employee of such contractor, if such contract is agreed to on or after the effective date of this section, shall be considered to be an employee of an agency.

(n) Mailing lists

An individual's name and address may not be sold or rented by an agency unless such action is specifically authorized by law. This provision shall not be construed to require the withholding of names and addresses otherwise permitted to be made public.

(o) Report on new systems

Each agency shall provide adequate advance notice to Congress and the Office of Management and Budget of any proposal to establish or alter any system of records in order to permit an evaluation of the probable or potential effect of such proposal on the privacy and other personal or property rights of individuals or the disclosure of information relating to such individuals, and its effect on the preservation of the constitutional principles of federalism and separation of powers.

(p) Annual report

The President shall submit to the Speaker of the House and the President of the Senate, by June 30 of each calendar year, a consolidated report, separately listing for each Federal agency the number of records contained in any system of records which were exempted from the application of this section under the provisions of subsections (j) and (k) of this section during the preceding calendar year, and the reasons for the exemptions, and such other information as indicates efforts to administer fully this section.

(q) Effect of other laws

No agency shall rely on any exemption contained in section 552 of this title to withhold from an individual any record which is otherwise accessible to such individual under the provisions of this section.

(Added Pub. L. 93-579, § 3, Dec. 31, 1974, 88 Stat. 1897, and amended Pub. L. 94-183, § 2(2), Dec. 31, 1975, 89 Stat. 1057.)

REFERENCES IN TEXT

For effective date of this section, referred to in subsecs. (k)(2), (5), (7), (*l*)(2), (3), and (m), see effective date note hereunder.

CODIFICATION

Section 552a of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2244 of Title 7, Agriculture.

AMENDMENTS

1975—Subsec. (g)(5). Pub. L. 94-183 substituted "to September 27, 1975" for "to the effective date of this section".

EFFECTIVE DATE

Section 8 of Pub. L. 93-579 provided that: "The provisions of this Act [enacting this section and provisions set out as notes under this section] shall be effective on and after the date of enactment [Dec. 31, 1974], except that the amendments made by sections 3 and 4 [enacting this section and amending analysis preceding section 500 of this title] shall become effective 270 days following the day on which this Act is enacted."

SHORT TITLE

Section 1 of Pub. L. 93-579 provided: "That this Act [enacting this section and provisions set out as notes under this section] may be cited as the 'Privacy Act of 1974'."

CONGRESSIONAL FINDINGS AND STATEMENT OF PURPOSE

Section 2 of Pub. L. 93-579 provided that:

"(a) The Congress finds that—

"(1) the privacy of an individual is directly affected by the collection, maintenance, use, and dissemination of personal information by Federal agencies;

"(2) the increasing use of computers and sophisticated information technology, while essential to the efficient operations of the Government, has greatly magnified the harm to individual privacy that can occur from any collection, maintenance, use, or dissemination of personal information;

"(3) the opportunities for an individual to secure employment, insurance, and credit, and his right to due process, and other legal protections are endangered by the misuse of certain information systems;

"(4) the right to privacy is a personal and fundamental right protected by the Constitution of the United States; and

"(5) in order to protect the privacy of individuals identified in information systems maintained by Federal agencies, it is necessary and proper for the Congress to regulate the collection, maintenance, use, and dissemination of information by such agencies.

"(b) The purpose of this Act [enacting this section and provisions set out as notes under this section] is to provide certain safeguards for an individual against an invasion of personal privacy by requiring Federal agencies, except as otherwise provided by law, to—

"(1) permit an individual to determine what records pertaining to him are collected, maintained, used, or disseminated by such agencies;

"(2) permit an individual to prevent records pertaining to him obtained by such agencies for a particular purpose from being used or made available for another purpose without his consent;

"(3) permit an individual to gain access to information pertaining to him in Federal agency records, to have a copy made of all or any portion thereof, and to correct or amend such records;

"(4) collect, maintain, use, or disseminate any record of identifiable personal information in a manner that assures that such action is for a necessary and lawful purpose, that the information is current and accurate for its intended use, and that adequate safeguards are provided to prevent misuse of such information;

"(5) permit exemptions from the requirements with respect to records provided in this Act only in those cases where there is an important public policy need for such exemption as has been determined by specific statutory authority; and

"(6) be subject to civil suit for any damages which occur as a result of willful or intentional action which violates any individual's rights under this Act."

Privacy Protection Study Commission

Section 5 of Pub. L. 93-579 provided that:

"(a)(1) There is established a Privacy Protection Study Commission (hereinafter referred to as the 'Commission') which shall be composed of seven members as follows:

"(A) three appointed by the President of the United States,

"(B) two appointed by the President of the Senate, and

"(C) two appointed by the Speaker of the House of Representatives.

Members of the Commission shall be chosen from among persons who, by reason of their knowledge and expertise in any of the following areas—civil rights and liberties, law, social sciences, computer technology, business, records management, and State and local government—are well qualified for service on the Commission.

"(2) The members of the Commission shall elect a Chairman from among themselves.

"(3) Any vacancy in the membership of the Commission, as long as there are four members in office, shall not impair the power of the Commission but shall be filled in the same manner in which the original appointment was made.

"(4) A quorum of the Commission shall consist of a majority of the members, except that the Commission may establish a lower number as a quorum for the purpose of taking testimony. The Commission is authorized to establish such committees and delegate such authority to them as may be necessary to carry out its functions. Each member of the Commission, including the Chairman, shall have equal responsibility and authority in all decisions and actions of the Commission, shall have full access to all information necessary to the performance of their functions, and shall have one vote. Action of the Commission shall be determined by a majority vote of the members present. The Chairman (or a member designated by the Chairman to be acting Chairman) shall be the official spokesman of the Commission in its relations with the Congress, Government agencies, other persons, and the public, and, on behalf of the Commission, shall see to the faithful execution of the administrative policies and decisions of the Commission, and shall report thereon to the Commission from time to time or as the Commission may direct.

"(5)(A) Whenever the Commission submits any budget estimate or request to the President or the Office of Management and Budget, it shall concurrently transmit a copy of that request to Congress.

"(B) Whenever the Commission submits any legislative recommendations, or testimony, or comments on legislation to the President or Office of Management and Budget, it shall concurrently transmit a copy thereof to the Congress. No officer or agency of the United States shall have any authority to require the Commission to submit its legislative recommendations, or testimony, or comments on legislation, to any officer or agency of the United States for approval, comments, or review, prior to the submission of such recommendations, testimony, or comments to the Congress.

"(b) The Commission shall—

"(1) make a study of the data banks, automated data processing programs, and information systems of governmental, regional, and private organizations, in order to determine the standards and procedures in force for the protection of personal information; and

"(2) recommend to the President and the Congress the extent, if any, to which the requirements and principles of section 552a of title 5, United States Code should be applied to the information practices of those organizations by legislation, administrative action, or voluntary adoption of such requirements and principles, and report on such other legislative recommendations as it may determine to be necessary to protect the privacy of individuals while meeting the legitimate needs of government and society for information.

"(c)(1) In the course of conducting the study required under subsection (b)(1) of this section, and in its reports thereon, the Commission may research, examine, and analyze—

"(A) interstate transfer of information about individuals that is undertaken through manual files or by computer or other electronic or telecommunications means;

"(B) data banks and information programs and systems the operation of which significantly or substantially affect the enjoyment of the privacy and other personal and property rights of individuals;

"(C) the use of social security numbers, license plate numbers, universal identifiers, and other symbols to identify individuals in data banks and to gain access to, integrate, or centralize information systems and files; and

"(D) the matching and analysis of statistical data, such as Federal census data, with other sources of personal data, such as automobile registries and telephone directories, in order to reconstruct individual responses to statistical questionnaires for commercial or other purposes, in a way which results in a violation of the implied or explicitly recognized confidentiality of such information.

"(2)(A) The Commission may include in its examination personal information activities in the following areas: medical; insurance; education; employment and personnel; credit, banking and financial institutions; credit bureaus; the commercial reporting industry; cable television and other telecommunications media; travel, hotel and entertainment reservations; and electronic check processing.

"(B) The Commission shall include in its examination a study of—

"(i) whether a person engaged in interstate commerce who maintains a mailing list should be required to remove an individual's name and address from such list upon request of that individual;

"(ii) whether the Internal Revenue Service should be prohibited from transferring individually indentifiable [sic] data to other agencies and to agencies of State governments;

"(iii) whether the Federal Government should be liable for general damages incurred by an individual as the result of a willful or intentional violation of the provisions of sections 552a(g)(1)(C) or (D) of title 5, United States Code; and

"(iv) whether and how the standards for security and confidentiality of records required under section 552a(e)(10) of such title should be applied when a record is disclosed to a person other than an agency.

"(C) The Commission may study such other personal information activities necessary to carry out the congressional policy embodied in this Act [this section and notes hereunder], except that the Commission shall not investigate information systems maintained by religious organizations.

"(3) In conducting such study, the Commission shall—

"(A) determine what laws, Executive orders, regulations, directives, and judicial decisions govern the activities under study and the extent to which they are consistent with the rights of privacy, due process of law, and other guarantees in the Constitution;

"(B) determine to what extent governmental and private information systems affect Federal-State relations or the principle of separation of powers;

"(C) examine the standards and criteria governing programs, policies, and practices relating to the collection, soliciting, processing, use, access, integration, dissemination, and transmission of personal information; and

"(D) to the maximum extent practicable, collect and utilize findings, reports, studies, hearing transcripts, and recommendations of governmental, legislative and private bodies, institutions, organizations, and individuals which pertain to the problems under study by the Commission.

"(d) In addition to its other functions the Commission may—

"(1) request assistance of the heads of appropriate departments, agencies, and instrumentalities of the Federal Government, of State and local governments, and other persons in carrying out its functions under this Act;

"(2) upon request, assist Federal agencies in complying with the requirements of section 552a of title 5, United States Code;

"(3) determine what specific categories of information, the collection of which would violate an individual's right of privacy, should be prohibited by statute from collection by Federal agencies; and

"(4) upon request, prepare model legislation for use by State and local governments in establishing procedures for handling, maintaining, and disseminating personal information at the State and local level and provide such technical assistance to State and local governments as they may require in the preparation and implementation of such legislation.

"(e)(1) The Commission may, in carrying out its functions under this section, conduct such inspections, sit and act at such times and places, hold such hearings, take such testimony, require by subpena the attendance of such witnesses and the production of such books, records, papers, correspondence, and documents, administer such oaths, have such printing and binding done, and make such expenditures as the Commission deems advisable. A subpena shall be issued only upon an affirmative vote of a majority of all members of the Commission. Subpenas shall be issued under the signature of the Chairman or any member of the Commission designated by the Chairman and shall be served by any person designated by the Chairman or any such member. Any member of the Commission may administer oaths or affirmations to witnesses appearing before the Commission.

"(2)(A) Each department, agency, and instrumentality of the executive branch of the Government is authorized to furnish to the Commission, upon request made by the Chairman, such information, data, reports and such other assistance as the Commission deems necessary to carry out its functions under this section. Whenever the head of any such department, agency, or instrumentality, submits a report pursuant to section 552a(*o*) of title 5, United States Code, a copy of such report shall be transmitted to the Commission.

"(B) In carrying out its functions and exercising its powers under this section, the Commission may accept from any such department, agency, independent instrumentality, or other person any individually indentifiable [sic] data if such data is necessary to carry out such powers and functions. In any case in which the Commission accepts any such information, it shall assure that the information is used only for the purpose for which it is provided, and upon completion of that purpose such information shall be destroyed or returned to such department, agency, independent instrumentality, or person from which it is obtained, as appropriate.

"(3) The Commission shall have the power to—

"(A) appoint and fix the compensation of an executive director, and such additional staff personnel as may be necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

"(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code.

The Commission may delegate any of its functions to such personnel of the Commission as the Commission may designate and may authorize such successive redelegations of such functions as it may deem desirable.

"(4) The Commission is authorized—

"(A) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel;

"(B) to enter into contracts or other arrangements or modifications thereof, with any government, any department, agency, or independent instrumentality of the United States, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes, as amended (41 U.S.C. 5);

"(C) to make advance, progress, and other payments which the Commission deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes, as amended (31 U.S.C. 529); and

"(D) to take such other action as may be necessary to carry out its functions under this section.

"(f)(1) Each member of the Commission who is an officer or employee of the United States shall serve without additional compensation, but shall continue to receive the salary of his regular position when engaged in the performance of the duties vested in the Commission.

"(2) A member of the Commission other than one to whom paragraph (1) applies shall receive per diem at the maximum daily rate for GS-18 of the General Schedule when engaged in the actual performance of the duties vested in the Commission.

"(3) All members of the Commission shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of the duties vested in the Commission.

"(g) The Commission shall, from time to time, and in an annual report, report to the President and the Congress on its activities in carrying out the provisions of this section. The Commission shall make a final report to the President and to the Congress on its findings pursuant to the study required to be made under subsection (b)(1) of this section not later than two years from the date on which all of the members of the Commission are appointed. The Commission shall cease to exist thirty days after the date on which its final report is submitted to the President and the Congress.

"(h)(1) Any member, officer, or employee of the Commission, who by virtue of his employment or official position, has possession of, or access to, agency records which contain individually identifiable information the disclosure of which is prohibited by the section, and who knowing that disclosure of the specific material is so prohibited, willfully discloses the material in any manner to any person or agency not entitled to receive it, shall be guilty of a misdemeanor and fined not more than $5,000.

"(2) Any person who knowingly and willfully requests or obtains any record concerning an individual from the Commission under false pretenses shall be guilty of a misdemeanor and fined not more than $5,000."

Guidelines and Regulations for Maintenance of Privacy and Protection of Records of Individuals

Section 6 of Pub. L. 93-579 provided that:

"The Office of Management and Budget shall—

"(1) develop guidelines and regulations for the use of agencies in implementing the provisions of section 552a of title 5, United States Code, as added by section 3 of this Act; and

"(2) provide continuing assistance to and oversight of the implementation of the provisions of such section by agencies."

Disclosure of Social Security Number

Section 7 of Pub. L. 93-579 provided that:

"(a)(1) It shall be unlawful for any Federal, State or local government agency to deny to any individual any right, benefit, or privilege provided by law because of such individual's refusal to disclose his social security account number.

"(2) The provisions of paragraph (1) of this subsection shall not apply with respect to—

"(A) any disclosure which is required by Federal statute, or

"(B) the disclosure of a social security number to any Federal, State, or local agency maintaining a system of records in existence and operating before January 1, 1975, if such disclosure was required under statute or regulation adopted prior to such date to verify the identity of an individual.

"(b) Any Federal, State, or local government agency which requests an individual to disclose his social security account number shall inform that individual whether that disclosure is mandatory or voluntary, by what statutory or other authority such number is solicited, and what uses will be made of it."

Authorization of Appropriations to Privacy Protection Study Commission

Section 9 of Pub. L. 93-579, as amended by Pub. L. 94-394, Sept. 3, 1976, 90 Stat. 1198, provided that: "There is authorized to be appropriated, without fiscal year limitation only to such extent or in such amounts as are provided in appropriation Acts, the sum of $2,000,000 to carry out the provisions of section 5 of this Act [set out as a note above] for the period beginning July 1, 1975, and ending on September 30, 1977."

Section Referred to in Other Sections

This section is referred to in section 552b of this title; title 26 section 6103; title 42 section 3525; title 44 section 2906.

§ 552b. Open meetings

(a) For purposes of this section—

(1) the term "agency" means any agency, as defined in section 552(e) of this title, headed by a collegial body composed of two or more individual members, a majority of whom are appointed to such position by the President with the advice and consent of the Senate, and any subdivision thereof authorized to act on behalf of the agency;

(2) the term "meeting" means the deliberations of at least the number of individual agency members required to take action on behalf of the agency where such deliberations determine or result in the joint conduct or disposition of official agency business, but does not include deliberations required or permitted by subsection (d) or (e); and

(3) the term "member" means an individual who belongs to a collegial body heading an agency.

(b) Members shall not jointly conduct or dispose of agency business other than in accordance with this section. Except as provided in subsection (c), every portion of every meeting of an agency shall be open to public observation.

(c) Except in a case where the agency finds that the public interest requires otherwise, the second sentence of subsection (b) shall not apply to any portion of an agency meeting, and the requirements of subsections (d) and (e) shall not apply to any information pertaining to such meeting otherwise required by this section to be disclosed to the public, where the agency properly determines that such portion or portions of its meeting or the disclosure of such information is likely to—

(1) disclose matters that are (A) specifically authorized under criteria established by an Executive order to be kept secret in the interests of national defense or foreign policy and (B) in fact properly classified pursuant to such Executive order;

(2) relate solely to the internal personnel rules and practices of an agency;

(3) disclose matters specifically exempted from disclosure by statute (other than section 552 of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on the issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;

(4) disclose trade secrets and commercial or financial information obtained from a person and privileged or confidential;

(5) involve accusing any person of a crime, or formally censuring any person;

(6) disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

(7) disclose investigatory records compiled for law enforcement purposes, or information which if written would be contained in such records, but only to the extent that the production of such records or information would (A) interfere with enforcement proceedings, (B) deprive a person of a right to a fair trial or an impartial adjudication, (C) constitute an unwarranted invasion of personal privacy, (D) disclose the identity of a confidential source and, in the case of a record compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, confidential information furnished only by the confidential source, (E) disclose investigative techniques and procedures, or (F) endanger the life or physical safety of law enforcement personnel;

(8) disclose information contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions;

(9) disclose information the premature disclosure of which would—

(A) in the case of an agency which regulates currencies, securities, commodities, or financial institutions, be likely to (i) lead to significant financial speculation in currencies, securities, or commodities, or (ii) significantly endanger the stability of any financial institution; or

(B) in the case of any agency, be likely to significantly frustrate implementation of a proposed agency action.

except that subparagraph (B) shall not apply in any instance where the agency has already disclosed to the public the content or nature of its proposed action, or where the agency is required by law to make such disclosure on its own initiative prior to taking final agency action on such proposal; or

(10) specifically concern the agency's issuance of a subpena, or the agency's participation in a civil action or proceeding, an action in a foreign court or international tribunal, or an arbitration, or the initiation, conduct, or disposition by the agency of a particular case of formal agency adjudication pursuant to the procedures in section 554 of this title or otherwise involving a determination on the record after opportunity for a hearing.

(d)(1) Action under subsection (c) shall be taken only when a majority of the entire membership of the agency (as defined in subsection (a)(1)) votes to take such action. A separate vote of the agency members shall be taken with respect to each agency meeting a portion or portions of which are proposed to be closed to the public pursuant to subsection (c), or with respect to any information which is proposed to be withheld under subsection (c). A single vote may be taken with respect to a series of meetings, a portion or portions of which are proposed to be closed to the public, or with respect to any information concerning such series of meetings, so long as each meeting in such series involves the same particular matters and is scheduled to be held no more than thirty days after the initial meeting in such series. The vote of each agency member participating in such vote shall be recorded and no proxies shall be allowed.

(2) Whenever any person whose interests may be directly affected by a portion of a meeting requests that the agency close such portion to the public for any of the reasons referred to in paragraph (5), (6), or (7) of subsection (c), the agency, upon request of any one of its members, shall vote by recorded vote whether to close such meeting.

(3) Within one day of any vote taken pursuant to paragraph (1) or (2), the agency shall make publicly available a written copy of such vote reflecting the vote of each member on the question. If a portion of a meeting is to be closed to the public, the agency shall, within one day of the vote taken pursuant to paragraph (1) or (2) of this subsection, make publicly available a full written explanation of its action closing the portion together with a list of all persons expected to attend the meeting and their affiliation.

(4) Any agency, a majority of whose meetings may properly be closed to the public pursuant to paragraph (4), (8), (9)(A), or (10) of subsection (c), or any combination thereof, may provide by regulation for the closing of such meetings or portions thereof in the event that a majority of the members of the agency votes by recorded vote at the beginning of such meeting, or portion thereof, to close the exempt portion or portions of the meeting, and a copy of such vote, reflecting the vote of each member on the question, is made available to the public. The provisions of paragraphs (1), (2), and (3) of this subsection and subsection (e) shall not apply to any portion of a meeting to which such regulations apply: *Provided*, That the agency shall, except to the extent that such information is exempt from disclosure under the provisions of subsection (c), provide the public with public announcement of the time, place, and subject matter of the meeting and of each portion thereof at the earliest practicable time.

(e)(1) In the case of each meeting, the agency shall make public announcement, at least one week before the meeting, of the time, place, and subject matter of the meeting, whether it is to be open or closed to the public, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting. Such announcement shall be made unless a majority of the members of the agency determines by a recorded vote that agency business requires that such meeting be called at an earlier date, in which case the agency shall make public announcement of the time, place, and subject matter of such meeting, and whether open or closed to the public, at the earliest practicable time.

(2) The time or place of a meeting may be changed following the public announcement required by paragraph (1) only if the agency publicly announces such change at the earliest practicable time. The subject matter of a meeting, or the determination of the agency to open or close a meeting, or portion of a meeting, to the public, may be changed following the public announcement required by this subsection only if (A) a majority of the entire membership of the agency determines by a recorded vote that agency business so requires and that no earlier announcement of the change was possible, and (B) the agency publicly announces such change and the vote of each member upon such change at the earliest practicable time.

(3) Immediately following each public announcement required by this subsection, notice of the time, place, and subject matter of a meeting, whether the meeting is open or closed, any change in one of the preceding, and the name and phone number of the official designated by the agency to respond to requests for information about the meeting, shall also be submitted for publication in the Federal Register.

(f)(1) For every meeting closed pursuant to paragraphs (1) through (10) of subsection (c), the General Counsel or chief legal officer of the agency shall publicly certify that, in his or her opinion, the meeting may be closed to the public and shall state each relevant exemptive provision. A copy of such certification, together with a statement from the presiding officer of the meeting setting forth the time and place of the meeting, and the persons present, shall be retained by the agency. The agency shall maintain a complete transcript or electronic recording adequate to record fully the proceedings of each meeting, or portion of a meeting, closed to the public, except that in the case of a meeting, or portion of a meeting, closed to the public pursuant to paragraph (8), (9)(A), or (10) of subsection (c), the agency shall maintain either such a transcript or recording, or a set of minutes. Such minutes shall fully and clearly describe all matters discussed and shall provide a full and accurate summary of any actions taken, and the reasons therefor, including a description of each of the views expressed on any item and the record of any rollcall vote (reflecting the vote of each member on the question). All documents considered in connection with any action shall be identified in such minutes.

(2) The agency shall make promptly available to the public, in a place easily accessible to the public, the transcript, electronic recording, or minutes (as required by paragraph (1)) of the discussion of any item on the agenda, or of any item of the testimony of any witness received at the meeting, except for such item or items of such discussion or testimony as the agency determines to contain information which may be withheld under subsection (c). Copies of such transcript, or minutes, or a transcription of such recording disclosing the identity of each speaker, shall be furnished to any person at the actual cost of duplication or transcription. The agency shall maintain a complete verbatim copy of the transcript, a complete copy of the minutes, or a complete electronic recording of each meeting, or portion of a meeting, closed to the public, for a period of at least two years after such meeting, or until one year after the conclusion of any agency proceeding with respect to which the meeting or portion was held, whichever occurs later.

(g) Each agency subject to the requirements of this section shall, within 180 days after the date of enactment of this section, following consultation with the Office of the Chairman of the Administrative Conference of the United States and published notice in the Federal Register of at least thirty days and opportunity for written comment by any person, promulgate regulations to implement the requirements of subsections (b) through (f) of this section. Any person may bring a proceeding in the United States District Court for the District of Columbia to require an agency to promulgate such regulations if such agency has not promulgated such regulations within the time period specified herein. Subject to any limitations of time provided by law, any person may bring a proceeding in the United States Court of Appeals for the District of Columbia to set aside agency regulations issued pursuant to this subsection that are not in accord with the requirements of subsections (b) through (f) of this section and to require the promulgation of regulations that are in accord with such subsections.

(h)(1) The district courts of the United States shall have jurisdiction to enforce the requirements of subsections (b) through (f) of this section by declaratory judgment, injunctive relief, or other relief as may be appropriate. Such actions may be brought by any person against an agency prior to, or within sixty days after, the meeting out of which the violation of this section arises, except that if public announcement of such meeting is not initially provided by the agency in accordance with the requirements of this section, such action may be instituted pursuant to this section at any time prior to sixty days after any public announcement of such meeting. Such actions may be brought in the district court of the United States for the district in which the agency meeting is held or in which the agency in question has its headquarters, or in the District Court for the District of Columbia. In such actions a defendant shall serve his answer within thirty days after the service of the complaint. The burden is on the defendant to sustain his action. In deciding such cases the court may examine in camera any portion of the transcript, electronic recording, or minutes of a meeting closed to the public, and may take such additional evidence as it deems necessary. The court, having due regard for orderly administration and the public interest, as well as the interests of the parties, may grant such equitable relief as it deems appropriate, including granting an injunction against future violations of this section or ordering the agency to make available to the public such portion of the transcript, recording, or minutes of a meeting as is not authorized to be withheld under subsection (c) of this section.

(2) Any Federal court otherwise authorized by law to review agency action may, at the application of any person properly participating in the proceeding pursuant to other applicable law, inquire into violations by the agency of the requirements of this section and afford such relief as it deems appropriate. Nothing in this section authorizes any Federal court having jurisdiction solely on the basis of paragraph (1) to set aside, enjoin, or invalidate any agency action (other than an action to close a meeting or to withhold information under this section) taken or discussed at any agency meeting out of which the violation of this section arose.

(i) The court may assess against any party reasonable attorney fees and other litigation costs reasonably incurred by any other party who substantially prevails in any action brought in accordance with the provisions of subsection (g) or (h) of this section, except that costs may be assessed against the plaintiff only where the court finds that the suit was initiated by the plaintiff primarily for frivolous or dilatory purposes. In the case of assessment of costs against an agency, the costs may be assessed by the court against the United States.

(j) Each agency subject to the requirements of this section shall annually report to Congress regarding its compliance with such requirements, including a tabulation of the total number of agency meetings open to the public, the total number of meetings closed to the public, the reasons for closing such meetings, and a description of any litigation brought against the agency under this section, including any costs assessed against the agency in such litigation (whether or not paid by the agency).

(k) Nothing herein expands or limits the present rights of any person under section 552 of this title, except that the exemptions set forth in subsection (c) of this section shall govern in the case of any request made pursuant to section 552 to copy or inspect the transcripts, recordings, or minutes described in subsection (f) of this section. The requirements of chapter 33 of title 44, United States Code, shall not apply to the transcripts, recordings, and minutes described in subsection (f) of this section.

(*l*) This section does not constitute authority to withhold any information from Congress, and does not authorize the closing of any agency meeting or portion thereof required by any other provision of law to be open.

(m) Nothing in this section authorizes any agency to withhold from any individual any record, including transcripts, recordings, or minutes required by this section, which is otherwise accessible to such individual under section 552a of this title.

(Added Pub. L. 94-409, § 3(a), Sept. 13, 1976, 90 Stat. 1241.)

References in Text

180 days after the date of enactment of this section, referred to in subsec. (g), means 180 days after the date of enactment of Pub. L. 94-409, which was approved Sept. 13, 1976.

Effective Date

Section 6 of Pub. L. 94-409 provided that:

"(a) Except as provided in subsection (b) of this section, the provisions of this Act [see Short Title note set out under this section] shall take effect 180 days after the date of its enactment [Sept. 13, 1976].

"(b) Subsection (g) of section 552b of title 5, United States Code, as added by section 3(a) of this Act [subsec. (g) of this section], shall take effect upon enactment [Sept. 13, 1976]."

Short Title

Section 1 of Pub. L. 94-409 provided: "That this Act [enacting this section, amending sections 551, 552, 556 and 557 of this title, section 10 of Appendix to this title, and section 410 of Title 39, and enacting provisions set out as notes under this section] may be cited as the 'Government in the Sunshine Act'."

Declaration of Policy and Statement of Purpose

Section 2 of Pub. L. 94-409 provided that: "It is hereby declared to be the policy of the United States that the public is entitled to the fullest practicable information regarding the decisionmaking processes of the Federal Government. It is the purpose of this Act [see Short Title note set out under this section] to provide the public with such information while protecting the rights of individuals and the ability of the Government to carry out its responsibilities."

Section Referred to in Other Sections

This section is referred to in section 552 of this title.

§ 553. Rule making

(a) This section applies, according to the provisions thereof, except to the extent that there is involved—

(1) a military or foreign affairs function of the United States; or

(2) a matter relating to agency management or personnel or to public property, loans, grants, benefits, or contracts.

(b) General notice of proposed rule making shall be published in the Federal Register, unless persons subject thereto are named and either personally served or otherwise have actual notice thereof in accordance with law. The notice shall include—

(1) a statement of the time, place, and nature of public rule making proceedings;

(2) reference to the legal authority under which the rule is proposed; and

(3) either the terms or substance of the proposed rule or a description of the subjects and issues involved.

Except when notice or hearing is required by statute, this subsection does not apply—

(A) to interpretative rules, general statements of policy, or rules of agency organization, procedure, or practice; or

(B) when the agency for good cause finds (and incorporates the finding and a brief statement of reasons therefor in the rules issued) that notice and public procedure thereon are impracticable, unnecessary, or contrary to the public interest.

(c) After notice required by this section, the agency shall give interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.

(d) The required publication or service of a substantive rule shall be made not less than 30 days before its effective date, except—

(1) a substantive rule which grants or recognizes an exemption or relieves a restriction;

(2) interpretative rules and statements of policy; or

(3) as otherwise provided by the agency for good cause found and published with the rule.

(e) Each agency shall give an interested person the right to petition for the issuance, amendment, or repeal of a rule.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 383.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1003	June 11, 1946, ch. 324, § 4, 60 Stat. 238.

In subsection (a)(1), the words "or naval" are omitted as included in "military".

In subsection (b), the word "when" is substituted for "in any situation in which".

In subsection (c), the words "for oral presentation" are substituted for "to present the same orally in any manner". The words "sections 556 and 557 of this title apply instead of this subsection" are substituted for "the requirements of sections 1006 and 1007 of this title shall apply in place of the provisions of this subsection".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Codification

Section 553 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2245 of Title 7, Agriculture.

CROSS REFERENCES

Commissioner of Education, prescribing of rules as to priorities in connection with grants for construction of undergraduate academic facilities by, see section 1132a-5 of Title 20, Education.

Federal Register Act, see section 1502 et seq. of Title 44, Public Printing and Documents.

Sugar Act, procedure of Secretary of Agriculture in making determinations of substantial interference under, see section 1116 of Title 7, Agriculture.

Wildlife management areas, hunting game birds, see section 718d of Title 16, Conservation.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 552a, 556 of this title; title 2 sections 501, 502; title 15 sections 18a, 57a, 78s, 78ggg, 1193, 1203, 1262, 1410b, 1474, 1912, 2058, 2079, 2309, 2603, 2604, 2605, 2618; title 16 sections 668c-3, 971d, 1381, 1463, 1533, 1535, 1604, 1821, 1855; title 18 sections 4201, 4218; title 20 sections 1132a-5, 1232; title 21 sections 358, 360d, 463, 1176; title 29 section 982; title 30 sections 861, 936; title 33 sections 1317, 1322, 1504; title 40 section 333; title 41 section 47; title 42 sections 300g-1, 300h, 300k-1, 1857c-10, 4905, 5403, 5506, 6392; title 43 section 1740; title 45 sections 431, 502, 562, 715; title 49 sections 15a, 1804; title 50 App. section 2158a.

§ 554. Adjudications

(a) This section applies, according to the provisions thereof, in every case of adjudication required by statute to be determined on the record after opportunity for an agency hearing, except to the extent that there is involved—

(1) a matter subject to a subsequent trial of the law and the facts de novo in a court;

(2) the selection or tenure of an employee, except a hearing examiner appointed under section 3105 of this title;

(3) proceedings in which decisions rest solely on inspections, tests, or elections;

(4) the conduct of military or foreign affairs functions;

(5) cases in which an agency is acting as an agent for a court; or

(6) the certification of worker representatives.

(b) Persons entitled to notice of an agency hearing shall be timely informed of—

(1) the time, place, and nature of the hearings;

(2) the legal authority and jurisdiction under which the hearing is to be held; and

(3) the matters of fact and law asserted.

When private persons are the moving parties, other parties to the proceeding shall give prompt notice of issues controverted in fact or law; and in other instances agencies may by rule require responsive pleading. In fixing the time and place for hearings, due regard shall be had for the convenience and necessity of the parties or their representatives.

(c) The agency shall give all interested parties opportunity for—

(1) the submission and consideration of facts, arguments, offers of settlement, or proposals of adjustment when time, the nature of the proceeding, and the public interest permit; and

(2) to the extent that the parties are unable so to determine a controversy by consent, hearing and decision on notice and in accordance with sections 556 and 557 of this title.

(d) The employee who presides at the reception of evidence pursuant to section 556 of this title shall make the recommended decision or initial decision required by section 557 of this title, unless he becomes unavailable to the agency. Except to the extent required for the disposition of ex parte matters as authorized by law, such an employee may not—

(1) consult a person or party on a fact in issue, unless on notice and opportunity for all parties to participate; or

(2) be responsible to or subject to the supervision or direction of an employee or agent engaged in the performance of investigative or prosecuting functions for an agency.

An employee or agent engaged in the performance of investigative or prosecuting functions for an agency in a case may not, in that or a factually related case, participate or advise in the decision, recommended decision, or agency review pursuant to section 557 of this title, except as witness or counsel in public proceedings. This subsection does not apply—

(A) in determining applications for initial licenses;

(B) to proceedings involving the validity or application of rates, facilities, or practices of public utilities or carriers; or

(C) to the agency or a member or members of the body comprising the agency.

(e) The agency, with like effect as in the case of other orders, and in its sound discretion, may issue a declaratory order to terminate a controversy or remove uncertainty.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 384.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1004	June 11, 1946, ch. 324, § 5, 60 Stat. 239.

In subsection (a)(2), the word "employee" is substituted for "officer or employee of the United States" in view of the definition of "employee" in section 2105.

In subsection (a)(4), the word "naval" is omitted as included in "military".

In subsection (a)(5), the word "or" is substituted for "and" since the exception is applicable if any one of the factors are involved.

In subsection (a)(6), the word "worker" is substituted for "employee", since the latter is defined in section 2105 as meaning Federal employees.

In subsection (b), the word "When" is substituted for "In instances in which".

In subsection (c)(2), the comma after the word "hearing" is omitted to correct an editorial error.

In subsection (d), the words "The employee" and "such an employee" are substituted in the first two sentences for "The same officers" and "such officers" in view of the definition of "employee" in section 2105. The word "officer" is omitted in the third and fourth sentences as included in "employee" as defined in section 2105. The prohibition in the third and fourth sentences is restated in positive form. In paragraph (C) of the last sentence, the words "in any manner" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Section 554 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2246 of Title 7, Agriculture.

Cross References

Licenses for manufacture of narcotic drugs, actions of Secretary of Health, Education, and Welfare when issuing or denying to conform to this section, see section 824 et seq. of Title 21, Food and Drugs.

Section Referred to in Other Sections

This section is referred to in sections 552b, 556, 557, 8124 of this title; title 2 sections 501, 502; title 7 sections 86, 87e, 87f-1, 2048; title 15 sections 78d-1, 1193, 2064, 2066, 2605, 2615; title 16 sections 1540, 1856, 1858; title 18 section 4218; title 19 section 160; title 21 sections 321, 360e; title 29 sections 216, 659; title 30 sections 185, 804, 814, 815, 818, 819, 820, 861, 938; title 33 sections 919, 1367, 1504; title 42 sections 2000e-17, 4910, 6971; title 43 section 1766; title 45 section 432.

§ 555. Ancillary matters

(a) This section applies, according to the provisions thereof, except as otherwise provided by this subchapter.

(b) A person compelled to appear in person before an agency or representative thereof is entitled to be accompanied, represented, and advised by counsel or, if permitted by the agency, by other qualified representative. A party is entitled to appear in person or by or with counsel or other duly qualified representative in an agency proceeding. So far as the orderly conduct of public business permits, an interested person may appear before an agency or its responsible employees for the presentation, adjustment, or determination of an issue, request, or controversy in a proceeding, whether interlocutory, summary, or otherwise, or in connection with an agency function. With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it. This subsection does not grant or deny a person who is not a lawyer the right to appear for or represent others before an agency or in an agency proceeding.

(c) Process, requirement of a report, inspection, or other investigative act or demand may not be issued, made, or enforced except as authorized by law. A person compelled to submit data or evidence is entitled to retain or, on payment of lawfully prescribed costs, procure a copy or transcript thereof, except that in a nonpublic investigatory proceeding the witness may for good cause be limited to inspection of the official transcript of his testimony.

(d) Agency subpenas authorized by law shall be issued to a party on request and, when required by rules of procedure, on a statement or showing of general relevance and reasonable scope of the evidence sought. On contest, the court shall sustain the subpena or similar process or demand to the extent that it is found to be in accordance with law. In a proceeding for enforcement, the court shall issue an order requiring the appearance of the witness or the production of the evidence or data within a reasonable time under penalty of punishment for contempt in case of contumacious failure to comply.

(e) Prompt notice shall be given of the denial in whole or in part of a written application, petition, or other request of an interested person made in connection with any agency proceedings. Except in affirming a prior denial or when the denial is self-explanatory, the notice shall be accompanied by a brief statement of the grounds for denial.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 385.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1005	June 11, 1946, ch. 324, § 6, 60 Stat. 240.

In subsection (b), the words "is entitled" are substituted for "shall be accorded the right". The word "officers" is omitted as included in "employees" in view of the definition of "employee" in section 2105. The words "With due regard for the convenience and necessity of the parties or their representatives and within a reasonable time" are substituted for "with reasonable dispatch" and "except that due regard shall be had for the convenience and necessity of the parties or their representatives". The prohibition in the last sentence is restated in positive form and the words "This subsection does not" are substituted for "Nothing herein shall be construed either to".

In subsection (c), the words "in any manner or for any purpose" are omitted as surplusage.

In subsection (e), the word "brief" is substituted for "simple". The words "of the grounds for denial" are substituted for "of procedural or other grounds" for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Codification

Section 555 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2247 of Title 7, Agriculture.

Section Referred to in Other Sections

This section is referred to in title 2 sections 501, 502; title 18 section 4218; title 19 section 160.

§ 556. Hearings; presiding employees; powers and duties; burden of proof; evidence; record as basis of decision

(a) This section applies, according to the provisions thereof, to hearings required by section 553 or 554 of this title to be conducted in accordance with this section.

(b) There shall preside at the taking of evidence—

(1) the agency;

(2) one or more members of the body which comprises the agency; or

(3) one or more hearing examiners appointed under section 3105 of this title.

This subchapter does not supersede the conduct of specified classes of proceedings, in whole or in part, by or before boards or other employees specially provided for by or designated under statute. The functions of presiding employees and of employees participating in decisions in accordance with section 557 of this title shall be conducted in an impartial manner. A presiding or participating employee may at any time disqualify himself. On the filing in good faith of a timely and sufficient affidavit of personal bias or other disqualification of a presiding or participating employee, the agency shall determine the matter as a part of the record and decision in the case.

(c) Subject to published rules of the agency and within its powers, employees presiding at hearings may—

(1) administer oaths and affirmations;

(2) issue subpenas authorized by law;

(3) rule on offers of proof and receive relevant evidence;

(4) take depositions or have depositions taken when the ends of justice would be served;

(5) regulate the course of the hearing;

(6) hold conferences for the settlement or simplification of the issues by consent of the parties;

(7) dispose of procedural requests or similar matters;

(8) make or recommend decisions in accordance with section 557 of this title; and

(9) take other action authorized by agency rule consistent with this subchapter.

(d) Except as otherwise provided by statute, the proponent of a rule or order has the burden of proof. Any oral or documentary evidence may be received, but the agency as a matter of policy shall provide for the exclusion of irrelevant, immaterial, or unduly repetitious evidence. A sanction may not be imposed or rule or order issued except on consideration of the whole record or those parts thereof cited by a party and supported by and in accordance with the reliable, probative, and substantial evidence. The agency may, to the extent consistent with the interests of justice and the policy of the underlying statutes administered by the agency, consider a violation of section 557(d) of this title sufficient grounds for a decision adverse to a party who has knowingly committed such violation or knowingly caused such violation to occur. A party is entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. In rule making or determining claims for money or benefits or applications for initial licenses an agency may, when a party will not be prejudiced thereby, adopt procedures for the submission of all or part of the evidence in written form.

(e) The transcript of testimony and exhibits, together with all papers and requests filed in the proceeding, constitutes the exclusive record for decision in accordance with section 557 of this title and, on payment of lawfully prescribed costs, shall be made available to the parties. When an agency decision rests on official notice of a material fact not appearing in the evidence in the record, a party is entitled, on timely request, to an opportunity to show the contrary.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 386; Pub. L. 94-409, § 4(c), Sept. 13, 1976, 90 Stat. 1247.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1006	June 11, 1946, ch. 324, § 7, 60 Stat. 241.

In subsection (b), the words "hearing examiners" are substituted for "examiners" in paragraph (3) for clarity. The prohibition in the second sentence is restated in positive form and the words "This subchapter does not" are substituted for "but nothing in this chapter shall be deemed to". The words "employee" and "employees" are substituted for "officer" and "officers" in view of the definition of "employee" in section 2105. The sentence "A presiding or participating employee may at any time disqualify himself." is substituted for the words "Any such officer may at any time withdraw if he deems himself disqualified."

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1976—Subsec. (d). Pub. L. 94-409 added provisions relating to consideration by the agency of a violation under section 557(d) of this title.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-409 effective 180 days after Sept. 13, 1976, see section 6 of Pub. L. 94-409, set out as a note under section 552b of this title.

Hearing Examiners Employed by Department of Commerce

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of Commerce were not included in the functions of officers, agencies, and employees of that Department which were transferred to the Secretary of Commerce by 1950 Reorg. Plan No. 5, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title.

Hearing Examiners Employed by Department of the Interior

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of the Interior were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to this title.

Hearing Examiners Employed by Department of Justice

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of Justice were not included in the transfer of functions of officers, agencies and employees of the Department of Justice to the Attorney General, made by 1950 Reorg. Plan No. 2, § 1, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to this title.

Hearing Examiners Employed by Department of Labor

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of Labor were not included in the transfer of functions of officers, agencies, and employees of the Department of Labor to the Secretary of Labor, made by 1950 Reorg. Plan No. 6, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title.

Hearing Examiners Employed by Department of the Treasury

Functions vested by this subchapter and chapter 7 of this title in hearing examiners employed by the Department of the Treasury were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by 1950 Reorg. Plan. No. 26, § 1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to this title.

Cross References

Secretary of Agriculture, advisory committee's report, recommendations, data, and statement of reasons on economic poisons as subject to subsec. (d) of this section, see section 135b of Title 7, Agriculture.

Secretary of Health, Education, and Welfare, advisory committee's report, regulations covering pesticides and color additives, see sections 346a and 376 of Title 21, Food and Drugs.

Secretary of Health, Education, and Welfare or his delegate, action in licensing manufacture of narcotic drugs, see section 822 et seq. of Title 21, Food and Drugs.

Securities and Exchange Commission, delegation of functions by, see section 78d-1 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 554, 557, 558, 706, 3105 of this title; title 2 sections 501, 502; title 7 sections 86, 87e, 87f-1; title 15 sections 57a, 1476, 2605; title 18 section 4218; title 19 section 160; title 21 sections 321, 376; title 22 section 1037a; title 39 sections 3624, 3661.

§ 557. Initial decisions; conclusiveness; review by agency; submissions by parties; contents of decisions; record

(a) This section applies, according to the provisions thereof, when a hearing is required to be conducted in accordance with section 556 of this title.

(b) When the agency did not preside at the reception of the evidence, the presiding employee or, in cases not subject to section 554(d) of this title, an employee qualified to preside at hearings pursuant to section 556 of this title, shall initially decide the case unless the agency requires, either in specific cases or by general rule, the entire record to be certified to it for decision. When the presiding employee makes an initial decision, that decision then becomes the decision of the agency without further proceedings unless there is an appeal to, or review on motion of, the agency within time provided by rule. On appeal from or review of the initial decision, the agency has all the powers which it would have in making the initial decision except as it may limit the issues on notice or by rule. When the agency makes the decision without having presided at the reception of the evidence, the presiding employee or an employee qualified to preside at hearings pursuant to section 556 of this title shall first recommend a decision, except that in rule making or determining applications for initial licenses—

(1) instead thereof the agency may issue a tentative decision or one of its responsible employees may recommend a decision; or

(2) this procedure may be omitted in a case in which the agency finds on the record that due and timely execution of its functions imperatively and unavoidably so requires.

(c) Before a recommended, initial, or tentative decision, or a decision on agency review of the decision of subordinate employees, the parties are entitled to a reasonable opportunity to submit for the consideration of the employees participating in the decisions—

(1) proposed findings and conclusions; or

(2) exceptions to the decisions or recommended decisions of subordinate employees or to tentative agency decisions; and

(3) supporting reasons for the exceptions or proposed findings or conclusions.

The record shall show the ruling on each finding, conclusion, or exception presented. All decisions, including initial, recommended, and tentative decisions, are a part of the record and shall include a statement of—

(A) findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record; and

(B) the appropriate rule, order, sanction, relief, or denial thereof.

(d)(1) In any agency proceeding which is subject to subsection (a) of this section, except to the extent required for the disposition of ex parte matters as authorized by law—

(A) no interested person outside the agency shall make or knowingly cause to be made to any member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, an ex parte communication relevant to the merits of the proceeding;

(B) no member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of the proceeding, shall make or knowingly cause to be made to any interested person outside the agency an ex parte communication relevant to the merits of the proceeding;

(C) a member of the body comprising the agency, administrative law judge, or other employee who is or may reasonably be expected to be involved in the decisional process of such proceeding who receives, or who makes or knowingly causes to be made, a communication prohibited by this subsection shall place on the public record of the proceeding:

(i) all such written communications;

(ii) memoranda stating the substance of all such oral communications; and

(iii) all written responses, and memoranda stating the substance of all oral responses, to the materials described in clauses (i) and (ii) of this subparagraph;

(D) upon receipt of a communication knowingly made or knowingly caused to be made by a party in violation of this subsection, the agency, administrative law judge, or other employee presiding at the hearing may, to the extent consistent with the interests of justice and the policy of the underlying statutes, require the party to show cause why his claim or interest in the proceeding should not be dismissed, denied, disregarded, or otherwise adversely affected on account of such violation; and

(E) the prohibitions of this subsection shall apply beginning at such time as the agency may designate, but in no case shall they begin to apply later than the time at which a proceeding is noticed for hearing unless the person responsible for the communication has knowledge that it will be noticed, in which case the prohibitions shall apply beginning at the time of his acquisition of such knowledge.

(2) This subsection does not constitute authority to withhold information from Congress.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 837; Pub. L. 94-409, § 4(a), Sept. 13, 1976, 90 Stat. 1246.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1007	June 11, 1946, ch. 324, § 8, 60 Stat. 242.

In subsection (b), the word "employee" is substituted for "officer" and "officers" in view of the definition of "employee" in section 2105. The word "either" is added after the word "requires" in the first sentence to eliminate the need for parentheses. The words "the presiding employee or an employee qualified to preside at hearings under section 556 of this title" are substituted for "such officers" in the last sentence. The word "initial" is omitted before "decision", the final word in the first sentence and the sixth word of the fourth sentence, to avoid confusion between the "initial decision" of the presiding employee and the "initial decision" of the agency.

In subsection (c), the word "employees" is substituted for "officers" in view of the definition of "employee" in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Section 557 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2207 of Title 7, Agriculture.

Section 557a of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2208 of Title 7, Agriculture.

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-409 added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-409 effective 180 days after Sept. 13, 1976, see section 6 of Pub. L. 94-409, set out as a note under section 552b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 553, 554, 556, 558, 706, 3105 of this title; title 2 sections 501, 502; title 7 sections 86, 87e, 87f-1; title 15 sections 57a, 2605; title 18 section 4218; title 19 section 160; title 21 section 321; title 39 sections 3624, 3661.

§ 558. Imposition of sanctions; determination of applications for licenses; suspension, revocation, and expiration of licenses

(a) This section applies, according to the provisions thereof, to the exercise of a power or authority.

(b) A sanction may not be imposed or a substantive rule or order issued except within jurisdiction delegated to the agency and as authorized by law.

(c) When application is made for a license required by law, the agency, with due regard for the rights and privileges of all the interested parties or adversely affected persons and within a reasonable time, shall set and complete proceedings required to be conducted in accordance with sections 556 and 557 of this title or other proceedings required by law and shall make its decision. Except in cases of willfulness or those in which public health, interest, or safety requires otherwise, the withdrawal, suspension, revocation, or annulment of a license is lawful only if, before the institution of agency proceedings therefor, the licensee has been given—

(1) notice by the agency in writing of the facts or conduct which may warrant the action; and

(2) opportunity to demonstrate or achieve compliance with all lawful requirements.

When the licensee has made timely and sufficient application for a renewal or a new license in accordance with agency rules, a license with reference to an activity of a continuing nature does not expire until the application has been finally determined by the agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 388.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1008	June 11, 1946, ch. 324, § 9, 60 Stat. 242.

In subsection (b), the prohibition is restated in positive form.

In subsection (c), the words "within a reasonable time" are substituted for "with reasonable dispatch". The last two sentences are restated for conciseness and clarity and to restate the prohibition in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Section 558 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2209 of Title 7, Agriculture.

CROSS REFERENCES

Civil Aeronautics Board, special operating authorization issued by, see section 1387 of Title 49, Transportation.

Federal Communications Commission, issuance of cease and desist orders in connection with revocation of licenses or permits by, see section 312 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502.

§ 559. Effect on other laws; effect of subsequent statute

This subchapter, chapter 7, and sections 1305, 3105, 3344, 4301(2)(E), 5362, and 7521 of this title, and the provisions of section 5335(a)(B) of this title that relate to hearing examiners, do not limit or repeal additional requirements imposed by statute or otherwise recognized by law. Except as otherwise required by law, requirements or privileges relating to evidence or procedure apply equally to agencies and persons. Each agency is granted the authority necessary to comply with the requirements of this subchapter through the issuance of rules or otherwise. Subsequent statute may not be held to supersede or modify this subchapter, chapter 7, sections 1305, 3105, 3344, 4301(2)(E), 5362, or 7521 of this title, or the provisions of section 5335(a)(B) of this title that relate to hearing examiners, except to the extent that it does so expressly.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 388; Pub. L. 90-623, § 1(1), Oct. 22, 1968, 82 Stat. 1312.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1011	June 11, 1946, ch. 324, § 12, 60 Stat. 244.

In the first and last sentences, the words "This subchapter, chapter 7, and sections 1305, 3105, 3344, 4301(2)(E), 5362, and 7521, and the provisions of section 5335(a)(B) of this title that relate to hearing examiners" are substituted for "this Act" to reflect the codification of the Act in this title. The words "to diminish the constitutional rights of any person or" are omitted as surplusage as there is nothing in the Act that can reasonably be construed to diminish those rights and because a statute may not operate in derogation of the Constitution.

The third sentence of former section 1011 is omitted as covered by technical section 7. The sixth sentence of former section 1011 is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Pub. L. 90-623 inserted "of this title" following "7521" wherever appearing.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 30 section 956.

SUBCHAPTER III—ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

§ 571. Purpose

It is the purpose of this subchapter to provide suitable arrangements through which Federal agencies, assisted by outside experts, may cooperatively study mutual problems, exchange information, and develop recommendations for action by proper authorities to the end that private rights may be fully protected and regulatory activities and other Federal responsibilities may be carried out expeditiously in the public interest.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 388.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1045(e)	Aug. 30, 1964, Pub. L. 88-499, § 2(e), 78 Stat. 615.

The words "this subchapter" are substituted for "this Act" to reflect the codification of the Administrative Conference Act in this subchapter.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Section 571 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2256 of Title 7, Agriculture.

§ 572. Definitions

For the purpose of this subchapter—

(1) "administrative program" includes a Federal function which involves protection of the public interest and the determination of rights, privileges, and obligations of private persons through rule making, adjudication, licensing, or investigation, as those terms are used in subchapter II of this chapter, except that it does not include a military or foreign affairs function of the United States;

(2) "administrative agency" means an authority as defined by section 551(1) of this title; and

(3) "administrative procedure" means procedure used in carrying out an administrative program and is to be broadly construed to include any aspect of agency organization, procedure, or management which may affect the equitable consideration of public and private interests, the fairness of agency decisions, the speed of agency action, and the relationship of operating methods to later judicial review, but does not include the scope of agency responsibility as established by law or matters of substantive policy committed by law to agency discretion.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 388.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1045a	Aug. 30, 1964, Pub. L. 88-499, § 3, 78 Stat. 615.

In paragraph (1), the words "subchapter II of this chapter" are substituted for "the Administrative Procedure Act (5 U.S.C. 1001-1011)" to reflect the codification of the Act in this title. The word "naval" is omitted as included in "military".

In paragraph (2), the words "section 551(1) of this title" are substituted for "section 2(a) of the Administrative Procedure Act (5 U.S.C. 1001(a))".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Section 572 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2257 of Title 7, Agriculture.

§ 573. Administrative Conference of the United States

(a) The Administrative Conference of the United States consists of not more than 91 nor less than 75 members appointed as set forth in subsection (b) of this section.

(b) The Conference is composed of—

(1) a full-time Chairman appointed for a 5-year term by the President, by and with the advice and consent of the Senate. The Chairman is entitled to pay at the highest rate established by statute for the chairman of an independent regulatory board or commission, and may continue to serve until his successor is appointed and has qualified;

(2) the chairman of each independent regulatory board or commission or an individual designated by the board or commission;

(3) the head of each Executive department or other administrative agency which is designated by the President, or an individual designated by the head of the department or agency;

(4) when authorized by the Council referred to in section 575(b) of this title, one or more appointees from a board, commission, department, or agency referred to in this subsection, designated by the head thereof with, in the case of a board or commission, the approval of the board or commission;

(5) individuals appointed by the President to membership on the Council who are not otherwise members of the Conference; and

(6) not more than 36 other members appointed by the Chairman, with the approval

of the Council, for terms of 2 years, except that the number of members appointed by the Chairman may at no time be less than one-third nor more than two-fifths of the total number of members. The Chairman shall select the members in a manner which will provide broad representation of the views of private citizens and utilize diverse experience. The members shall be members of the practicing bar, scholars in the field of administrative law or government, or others specially informed by knowledge and experience with respect to Federal administrative procedure.

(c) Members of the Conference, except the Chairman, are not entitled to pay for service. Members appointed from outside the Federal Government are entitled to travel expenses, including per diem instead of subsistence, as authorized by section 5703 of this title for individuals serving without pay.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 389.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1045b	Aug. 30, 1964, Pub. L. 88-499, § 4, 78 Stat. 616.

In subsection (a), the words "There is hereby established" are omitted as executed. The words "hereinafter referred to as the 'Conference'" are omitted as unnecessary as the title "Administrative Conference of the United States" is fully set out the first time it is used in each section of this chapter.

In subsection (b)(4), the words "referred to in section 575(b) of this title" are inserted for clarity.

In subsection (c), the words "by section 5703 of this title" are substituted for "by law (5 U.S.C. 73b-2)" to reflect the codification of that section in title 5.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Codification

Section 573 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2258 of Title 7, Agriculture.

Development of Administrative Conference

The Administrative Conference of the United States, established as a permanent body by the Administrative Conference Act, Pub. L. 88-499, Aug. 30, 1964, 78 Stat. 615, was preceded by two temporary Conferences. The first was called by President Eisenhower in 1953 and adopted a final report which was transmitted to the President who acknowledged receipt of it on March 3, 1955. The second was established by President Kennedy by Executive Order No. 10934, Apr. 14, 1961, 26 F.R. 3233, which, by its terms, called for a final report to the President by December 31, 1962. The final report recommended a continuing Conference consisting of both government personnel and outside experts.

§ 574. Powers and duties of the Conference

To carry out the purpose of this subchapter, the Administrative Conference of the United States may—

(1) study the efficiency, adequacy, and fairness of the administrative procedure used by administrative agencies in carrying out administrative programs, and make recommendations to administrative agencies, collectively or individually, and to the President, Congress, or the Judicial Conference of the United States, in connection therewith, as it considers appropriate;

(2) arrange for interchange among administrative agencies of information potentially useful in improving administrative procedure; and

(3) collect information and statitstics from administrative agencies and publish such reports as it considers useful for evaluating and improving administrative procedure.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 390.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1045c	Aug. 30, 1964, Pub. L. 88-499, § 5, 78 Stat. 616.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Codification

Section 574 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2255 of Title 7, Agriculture.

Section 574a of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2226 of Title 7, Agriculture.

§ 575. Organization of the Conference

(a) The membership of the Administrative Conference of the United States meeting in plenary session constitutes the Assembly of the Conference. The Assembly has ultimate authority over all activities of the Conference. Specifically, it has the power to—

(1) adopt such recommendations as it considers appropriate for improving administrative procedure. A member who disagrees with a recommendation adopted by the Assembly is entitled to enter a dissenting opinion and an alternate proposal in the record of the Conference proceedings, and the opinion and proposal so entered shall accompany the Conference recommendation in a publication or distribution thereof; and

(2) adopt bylaws and regulations not inconsistent with this subchapter for carrying out the functions of the Conference, including the creation of such committees as it considers necessary for the conduct of studies and the development of recommendations for consideration by the Assembly.

(b) The Conference includes a Council composed of the Chairman of the Conference, who is Chairman of the Council, and 10 other members appointed by the President, of whom not more than one-half shall be employees of Federal regulatory agencies or Executive departments. The President may designate a member of the Council as Vice Chairman. During the absence or incapacity of the Chairman, or when that office is vacant, the Vice Chairman shall serve as Chairman. The term of each member, except the Chairman, is 3 years. When the term of a member ends, he may continue to serve until a successor is appointed. However, the service of any member ends when a change in his employment status would make him ineligible for Council membership under the conditions of his original appointment. The Council has the power to—

(1) determine the time and place of plenary sessions of the Conference and the agenda for the sessions. The Council shall call at least one plenary session each year;

(2) propose bylaws and regulations, including rules of procedure and committee organization, for adoption by the Assembly;

(3) make recommendations to the Conference or its committees on a subject germane to the purpose of the Conference;

(4) receive and consider reports and recommendations of committees of the Conference and send them to members of the Conference with the views and recommendations of the Council;

(5) designate a member of the Council to preside at meetings of the Council in the absence or incapacity of the Chairman and Vice Chairman;

(6) designate such additional officers of the Conference as it considers desirable;

(7) approve or revise the budgetary proposals of the Chairman; and

(8) exercise such other powers as may be delegated to it by the Assembly.

(c) The Chairman is the chief executive of the Conference. In that capacity he has the power to—

(1) make inquiries into matters he considers important for Conference consideration, including matters proposed by individuals inside or outside the Federal Government;

(2) be the official spokesman for the Conference in relations with the several branches and agencies of the Federal Government and with interested organizations and individuals outside the Government, including responsibility for encouraging Federal agencies to carry out the recommendations of the Conference;

(3) request agency heads to provide information needed by the Conference, which information shall be supplied to the extent permitted by law;

(4) recommend to the Council appropriate subjects for action by the Conference;

(5) appoint, with the approval of the Council, members of committees authorized by the bylaws and regulations of the Conference;

(6) prepare, for approval of the Council, estimates of the budgetary requirements of the Conference;

(7) appoint and fix the pay of employees, define their duties and responsibilities, and direct and supervise their activities;

(8) rent office space in the District of Columbia;

(9) provide necessary services for the Assembly, the Council, and the committees of the Conference;

(10) organize and direct studies ordered by the Assembly or the Council, to contract for the performance of such studies with any public or private persons, firm, association, corporation, or institution under title III of the Federal Property and Administrative Services Act of 1949, as amended (41 U.S.C. 251–260), and to use from time to time, as appropriate, experts and consultants who may be employed in accordance with section 3109 of this title at rates not in excess of the maximum rate of pay for grade GS-15 as provided in section 5332 of this title;

(11) utilize, with their consent, the services and facilities of Federal agencies and of State and private agencies and instrumentalities with or without reimbursement;

(12) accept, hold, administer, and utilize gifts, devises, and bequests of property, both real and personal, for the purpose of aiding and facilitating the work of the Conference. Gifts and bequests of money and proceeds from sales of other property received as gifts, devises, or bequests shall be deposited in the Treasury and shall be disbursed upon the order of the Chairman. Property accepted pursuant to this section, and the proceeds thereof, shall be used as nearly as possible in accordance with the terms of the gifts, devises, or bequests. For purposes of Federal income, estate, or gift taxes, property accepted under this section shall be considered as a gift, devise, or bequest to the United States;

(13) accept voluntary and uncompensated services, notwithstanding the provisions of section 3679(b) of the Revised Statutes (31 U.S.C. 665(b));

(14) on request of the head of an agency, furnish assistance and advice on matters of administrative procedure; and

(15) exercise such additional authority as the Council or Assembly delegates to him.

The Chairman shall preside at meetings of the Council and at each plenary session of the Conference, to which he shall make a full report concerning the affairs of the Conference since the last preceding plenary session. The Chairman, on behalf of the Conference, shall transmit to the President and Congress an annual report and such interim reports as he considers desirable.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 390; Pub. L. 92-526, § 1, Oct. 21, 1972, 86 Stat. 1048.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1045d	Aug. 30, 1964, Pub. L. 88-499, § 6, 78 Stat. 617.

In subsection (b), the words "except that the Council members initially appointed shall serve for one, two, or three years, as designated by the President" are omitted as executed, existing rights being preserved by technical section 8.

In subsection (b)(1), the words "the sessions" are substituted for "such meetings" for clarity as elsewhere the word "sessions" refers to sessions of the Conference and "meetings" refers to meetings of the Council.

In subsection (c)(7), the words "subject to the civil service and classification laws" are omitted as unnecessary inasmuch as appointments in the executive branch are made subject to the civil service laws and pay is fixed under classification laws unless specifically excepted. The words "and fix the pay of" are added for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Codification

Section 575 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2259 of Title 7, Agriculture.

Amendments

1972—Subsec. (c)(10). Pub. L. 92-526, § 1(a), added provisions authorizing contracts for the performance of such studies with any public or private persons, etc., under title III of the Federal Property and Administrative Services Act of 1949, as amended, and substituted provisions authorizing the payment of experts and consultants in accordance with rates not in excess of the maximum rate of pay for grade GS-15 as provided in section 5332 of this title, for provisions authorizing the payment of such individuals at rates not in excess of $100 a day.

Subsecs. (c)(11) to (15). Pub. L. 92-526, § 1(b), added subsecs. (c)(11) to (13). Former subsecs. (c)(11) and (12) were redesignated as (c)(14) and (15), respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 573 of this title.

§ 576. Appropriations

There are authorized to be appropriated sums necessary not in excess of $760,000 for the fiscal year ending June 30, 1974, $805,000 for the fiscal year ending June 30, 1975, $850,000 for the fiscal year ending June 30, 1976, $900,000 for the fiscal year ending June 30, 1977, and $950,000 for the fiscal year ending June 30, 1978, and for each fiscal year thereafter, to carry out the purposes of this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 391; Pub. L. 91-164, Dec. 24, 1969, 83 Stat. 446; Pub. L. 92-526, § 2, Oct. 21, 1972, 86 Stat. 1048.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1045e	Aug. 30, 1964, Pub. L. 88-499, § 7, 78 Stat. 618.

The word "hereby" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Section 576 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 2260 of Title 7, Agriculture.

AMENDMENTS

1972—Pub. L. 92-526 substituted provisions authorizing to be appropriated necessary sums not in excess of $760,000 for the fiscal year ending June 30, 1974, $805,000 for the fiscal year ending June 30, 1975, $850,000 for the fiscal year ending June 30, 1976, $900,000 for the fiscal year ending June 30, 1977, and $950,000 for the fiscal year ending June 30, 1978, and each fiscal year thereafter, for provisions authorizing to be appropriated necessary sums, not in excess of $450,000 per annum.

1969—Pub. L. 91-164 substituted "$450,000 per annum" for "$250,000".

CHAPTER 7—JUDICIAL REVIEW

Sec.
701. Application; definitions.
702. Right of review.
703. Form and venue of proceeding.
704. Actions reviewable.
705. Relief pending review.
706. Scope of review.

POPULAR NAME

The provisions of sections 551 to 559 of this title and this chapter were originally enacted by act June 11, 1946, ch. 423, 60 Stat. 237, popularly known as the "Administrative Procedure Act". That Act was repealed as part of the general revision of this title by Pub. L. 89-554 and its provisions incorporated into sections 551 to 559 of this title and this chapter.

CROSS REFERENCES

Chapter applicable to—
- Atomic Energy Act of 1954, see sections 2231 and 2239 of Title 42, The Public Health and Welfare.
- Farm Labor Contractor Registration Act of 1963, see section 2049 of Title 7, Agriculture.
- Federally assisted programs, nondiscrimination in, see section 2000d-2 of Title 42, The Public Health and Welfare.
- Helium Act, see section 167h of Title 50, War and National Defense.
- International Wheat Agreement Act of 1949, see section 1642 of Title 7, Agriculture.
- Motor vehicle safety standards orders, see section 1392 of Title 15, Commerce and Trade.
- Subversive Activities Control Board functions and proceedings, see section 795 of Title 50, War and National Defense.
- Uniform Time Act of 1966, see section 266 of Title 15, Commerce and Trade.
- Walsh-Healey Act, see section 43a of Title 41, Public Contracts.

Chapter inapplicable to—
- American-Mexican Chamizal Convention Act of 1964, see section 277d-24 of Title 22, Foreign Relations and Intercourse.
- Bridges, alteration, see section 524 of Title 33, Navigation and Navigable Waters.
- Export Control Act of 1949, see section 2407 of Appendix to Title 50, War and National Defense.
- Federal Coal Mine Health and Safety Act of 1969, see section 956 of Title 30, Mineral Lands and Mining.
- National Security Agency personnel security procedures, see section 835 of Title 50, War and National Defense.
- Renegotiation Act of 1951, see section 1221 of Appendix to Title 50, War and National Defense.
- Universal Military Training and Service Act, see section 463 of Appendix to Title 50, War and National Defense.
- Water resources development projects, acquisition of land for, see section 597 of Title 33, Navigation and Navigable Waters.

Government contracts, judicial review, see chapter 5 of Title 41, Public Contracts.

National Labor Relations Board unfair labor practices proceedings, judicial review, see section 160 of Title 29, Labor.

Public library services and construction, judicial review, see section 351d of Title 20, Education.

Tort claims against Government, administrative adjustment, see section 2672 of Title 28, Judiciary and Judicial Procedure.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 559, 8902 of this title; title 2 section 434; title 7 sections 1154, 2049; title 12 sections 1464, 1730, 1730a, 1749bbb-16, 1786, 1818, 1959; title 15 sections 57a, 266, 687e, 1193, 1392, 1394, 1715, 1913, 2004, 2008, 2060, 2603, 2618, 2622; title 16 sections 460aa-3, 470m, 1374, 1855; title 17 App. sections 701, 803, 810; title 18 sections 843, 4218; title 20 sections 107d-2, 641, 1683; title 21 section 360g; title 22 sections 277d-24, 1037c, 1623; title 25 sections 372-1, 954; title 26 section 9041; title 29 sections 721, 792, 1137; title 30 section 737; title 31 section 1062; title 33 section 1224; title 39 sections 410, 3001, 3008, 3603; title 42 sections 263f, 300j-9, 1395oo, 1857f-5, 3886, 4104, 5405, 6105, 6306; title 45 section 431; title 47 sections 303, 310; title 49 sections 1355, 1655, 1675, 1903; title 50 App. section 463.

§ 701. Application; definitions

(a) This chapter applies, according to the provisions thereof, except to the extent that—

(1) statutes preclude judicial review; or

(2) agency action is committed to agency discretion by law.

(b) For the purpose of this chapter—

(1) "agency" means each authority of the Government of the United States, whether or not it is within or subject to review by another agency, but does not include—

(A) the Congress;

(B) the courts of the United States;

(C) the governments of the territories or possessions of the United States;

(D) the government of the District of Columbia;

(E) agencies composed of representatives of the parties or of representatives of organizations of the parties to the disputes determined by them;

(F) courts martial and military commissions;

(G) military authority exercised in the field in time of war or in occupied territory; or

(H) functions conferred by sections 1738, 1739, 1743, and 1744 of title 12; chapter 2 of title 41; or sections 1622, 1884, 1891–1902, and former section 1641(b)(2), of title 50, appendix; and

(2) "person", "rule", "order", "license", "sanction", "relief", and "agency action" have the meanings given them by section 551 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 1009 (introductory clause).	June 11, 1946, ch. 324, § 10 (introductory clause), 60 Stat. 243.

In subsection (a), the words "This chapter applies, according to the provisions thereof," are added to avoid the necessity of repeating the introductory clause of former section 1009 in sections 702–706.

Subsection (b) is added on authority of section 2 of the Act of June 11, 1946, ch. 324, 60 Stat. 237, as amended, which is carried into section 551 of this title.

In subsection (b)(1)(G), the words "or naval" are omitted as included in "military".

In subsection (b)(1)(H), the words "functions which by law expire on the termination of present hostilities, within any fixed period thereafter, or before July 1, 1947" are omitted as executed. Reference to the "Selective Training and Service Act of 1940" is omitted as that Act expired on Mar. 31, 1947. Reference to the "Sugar Control Extension Act of 1947" is omitted as that Act expired on Mar. 31, 1948. References to the "Housing and Rent Act of 1947, as amended" and the "Veterans' Emergency Housing Act of 1946" have been consolidated as they are related. The reference to former section 1641(b)(2) of title 50, appendix, is retained notwithstanding its repeal by § 111(a)(1) of the Act of Sept. 21, 1961, Pub. L. 87-256, 75 Stat. 538, since § 111(c) of the Act provides that a reference in other Acts to a provision of law repealed by § 111(a) shall be considered to be a reference to the appropriate provisions of Pub. L. 87-256.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

References in Text

Sections 1891–1902 of title 50, appendix, referred to in subsec. (b)(1)(H), have been omitted as executed.

Cross References

Atomic Energy Community Act of 1955, administrative review only, see section 2309 of Title 42, The Public Health and Welfare.

Section Referred to in Other Sections

This section is referred to in title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 20 section 1683; title 25 section 954; title 30 section 956; title 42 sections 5405, 6105, 6976.

§ 702. Right of review

A person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof. An action in a court of the United States seeking relief other that money damages and stating a claim that an agency or an officer or employee thereof acted or failed to act in an official capacity or under color of legal authority shall not be dismissed nor relief therein be denied on the ground that it is against the United States or that the United States is an indispensable party. The United States may be named as a defendant in any such action, and a judgment or decree may be entered against the United States: *Provided,* That any mandatory or injunctive decree shall specify the Federal officer or officers (by name or by title), and their successors in office, personally responsible for compliance. Nothing herein (1) affects other limitations on judicial review or the power or duty of the court to dismiss any action or deny relief on any other appropriate legal or equitable ground; or (2) confers authority to grant relief if any other statute that grants consent to suit expressly or impliedly forbids the relief which is sought.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392; Pub. L. 94-574, § 1, Oct. 21, 1976, 90 Stat. 2721.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1009(a)	June 11, 1946, ch. 324, § 10(a), 60 Stat. 243.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1976—Pub. L. 94-574 removed the defense of sovereign immunity as a bar to judicial review of Federal administrative action otherwise subject to judicial review.

Section Referred to in Other Sections

This section is referred to in title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 19 section 160; title 25 section 954; title 42 section 5405.

§ 703. Form and venue of proceeding

The form of proceeding for judicial review is the special statutory review proceeding relevant to the subject matter in a court specified by statute or, in the absence or inadequacy thereof, any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus, in a court of competent jurisdiction. If no special statutory review proceeding is applicable, the action for judicial review may be brought against the United States, the agency by its official title, or the appropriate officer. Except to the extent that prior, adequate, and exclusive opportunity for judicial

review is provided by law, agency action is subject to judicial review in civil or criminal proceedings for judicial enforcement.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392; Pub. L. 94-574, § 1, Oct. 21, 1976, 90 Stat. 2721.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1009(b)	June 11, 1946, ch. 324, § 10(b), 60 Stat. 243.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1976—Pub. L. 94-574 provided that if no special statutory review proceeding is applicable, the action for judicial review may be brought against the United States, the agency by its official title, or the appropriate officer as defendant.

Section Referred to in Other Sections

This section is referred to in title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 25 section 954; title 42 section 5405.

§ 704. Actions reviewable

Agency action made reviewable by statute and final agency action for which there is no other adequate remedy in a court are subject to judicial review. A preliminary, procedural, or intermediate agency action or ruling not directly reviewable is subject to review on the review of the final agency action. Except as otherwise expressly required by statute, agency action otherwise final is final for the purposes of this section whether or not there has been presented or determined an application for a declaratory order, for any form of reconsiderations, or, unless the agency otherwise requires by rule and provides that the action meanwhile is inoperative, for an appeal to superior agency authority.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 392.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1009(c)	June 11, 1946, ch. 324, § 10(c), 60 Stat. 243.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of this report.

Section Referred to in Other Sections

This section is referred to in title 2 sections 501, 502; title 7 section 2149; title 18 sections 843, 4218; title 25 section 954; title 42 section 5405.

§ 705. Relief pending review

When an agency finds that justice so requires, it may postpone the effective date of action taken by it, pending judicial review. On such conditions as may be required and to the extent necessary to prevent irreparable injury, the reviewing court, including the court to which a case may be taken on appeal from or on application for certiorari or other writ to a reviewing court, may issue all necessary and appropriate process to postpone the effective date of an agency action or to preserve status or rights pending conclusion of the review proceedings.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 393.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1009(d)	June 11, 1946, ch. 324, § 10(d), 60 Stat. 243.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of this report.

Section Referred to in Other Sections

This section is referred to in title 2 sections 501, 502; title 7 section 2149; title 15 sections 78y, 1262, 1474; title 16 section 1855; title 18 sections 843, 4218; title 25 section 954; title 42 section 5405.

§ 706. Scope of review

To the extent necessary to decision and when presented, the reviewing court shall decide all relevant questions of law, interpret constitutional and statutory provisions, and determine the meaning or applicability of the terms of an agency action. The reviewing court shall—

(1) compel agency action unlawfully withheld or unreasonably delayed; and

(2) hold unlawful and set aside agency action, findings, and conclusions found to be—

(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

(B) contrary to constitutional right, power, privilege, or immunity;

(C) in excess of statutory jurisdiction, authority, or limitations, or short of statutory right;

(D) without observance of procedure required by law;

(E) unsupported by substantial evidence in a case subject to sections 556 and 557 of this title or otherwise reviewed on the record of an agency hearing provided by statute; or

(F) unwarranted by the facts to the extent that the facts are subject to trial de novo by the reviewing court.

In making the foregoing determinations, the court shall review the whole record or those parts of it cited by a party, and due account shall be taken of the rule of prejudicial error.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 393.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1009(e)	June 11, 1946, ch. 324, § 10(e), 60 Stat. 243.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of this report.

Abbreviation of Record

Pub. L. 85-791, Aug. 28, 1958, 72 Stat. 941, which authorized the abbreviation of the record on the review or enforcement of orders of administrative agencies and review on the original papers, provided, in section 35 thereof, that: "This Act [which added section 2112 of Title 28, Judiciary and Judicial Procedure, and amended former sections 1036 and 1037(c) of this title [now sections 2346 and 2347(c) of Title 28], sections 8, 9, 193(c), 194(b)-(d), (h), 1115(c), 1599(c), 1600, and 1601 of Title 7, Agriculture, section 1848 of Title 12, Banks and Banking, sections 21, 45(b)-(d), 77i(a), 78y(a), 79x(a), 80a-42(a), 80b-13(a), and 717r(a), (b) of Title 15, Commerce and Trade, section 825*l*(a), (b) of Title 16, Conservation, sections 81r(c) and 1641(b) of Title 19, Customs Duties, section 277(b) of Title 20, Education, sections 346a(i)(2), (3), 371(f)(1), (3) of Title 21, Food and Drugs, section 1631f(b) of Title 22, Foreign Relations and Intercourse, section 204(h), Title 27, Intoxicating Liquors, sections 160(d)-(f) and 210(a) of Title 29, Labor, former section 576 (now section 6212(f)) Title 39, The Postal Service, section 291j(b)(1), (2) of Title 42, Public Health and Welfare, section 315(f) of Title 45, Railroads, section 1181(b) of Title 46, Shipping, section 402(d) of Title 47, Telegraphs, Telephones, and Radiotelegraphs, section 646(c) of Title 49, Transportation, and sections 793(a), 820(e), 821(c), (d) of Title 50, War and National Defense] shall not be construed to repeal or modify any provision of the Administrative Procedure Act."

CROSS REFERENCES

Federal Communications Commission proceedings, applicability of section to, see section 402 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 501, 502; title 7 sections 2048, 2149; title 15 sections 57a, 78y, 757, 760a, 1262, 1474, 2618; title 16 sections 1855, 1858; title 18 sections 843, 4218; title 22 section 1037c; title 25 section 954; title 30 section 956; title 39 section 3628; title 42 sections 1857c-10, 5405, 6976; title 45 section 726.

CHAPTER 9—EXECUTIVE REORGANIZATION

Sec.

901. Purpose.
902. Definitions.
903. Reorganization plans.
904. Additional contents of reorganization plans.
905. Limitations on powers.
906. Effective date and publication of reorganization plans.
907. Effect on other laws, pending legal proceedings, and unexpended appropriations.
908. Rules of Senate and House of Representatives on reorganization plans.
909. Terms of resolution.
910. Reference of resolution to committee.
911. Discharge of committee considering resolution.
912. Procedure after report or discharge of committee; debate.
913. Decisions without debate on motion to postpone or proceed.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 sections 2000e-6, 2941; title 49 section 1652.

§ 901. Purpose

(a) The Congress declares that it is the policy of the United States—

(1) to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;

(2) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government;

(3) to increase the efficiency of the operations of the Government to the fullest extent practicable;

(4) to group, coordinate, and consolidate agencies and functions of the Government, as nearly as may be, according to major purposes;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government; and

(6) to eliminate overlapping and duplication of effort.

(b) Congress declares that the public interest demands the carrying out of the purposes of subsection (a) of this section and that the purposes may be accomplished in great measure by proceeding under this chapter, and can be accomplished more speedily thereby than by the enactment of specific legislation.

(c) The President shall from time to time examine the organization of all agencies and shall determine what changes in such organization are necessary to carry out any policy set forth in subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 394; Pub. L. 92-179, § 1, Dec. 10, 1971, 85 Stat. 574.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 133z	June 20, 1949, ch. 226, § 2, 63 Stat. 203.

In subsection (a), the words "from time to time examine" are substituted for "examine and from time to time reexamine" since the initial examination has been executed. The words "of the Government" following "agencies" are omitted as unnecessary in view of the definition of "agency" in section 902. In subsection (a) (1), the words "of the Government" following "executive branch" are omitted as unnecessary and to conform to the style of this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Section 901(c) of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 60e-2(a) of Title 2, The Congress.

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-179, § 1(a), substituted "The Congress declares that it is the policy of the United States" for "The President shall from time to time examine the organization of all agencies and shall determine what changes therein are necessary to accomplish the following purposes" preceding par. (1).

Subsec. (c). Pub. L. 92-179, § 1(b), added subsec. (c), consisting of provisions formerly set out preceding par. (1) of subsec. (a).

EX. ORD. NO. 6166. REORGANIZATION OF EXECUTIVE AGENCIES GENERALLY

Ex. Ord. No. 6166, June 10, 1933, provided:

§ 1. PROCUREMENT

The function of determination of policies and methods of procurement, warehousing, and distribution of property, facilities, structures, improvements, machinery, equipment, stores, and supplies exercised by an agency is transferred to a Procurement Division in the Treasury Department, at the head of which shall be a Director of Procurement.

The Office of the Supervising Architect of the Treasury Department is transferred to the Procurement Division, except that the buildings of the Treasury Department shall be administered by the Treasury Department and the administration of post-office buildings is transferred to the Post Office Department. The General Supply Committee of the Treasury Department is abolished.

In respect of any kind of procurement, warehousing, or distribution for any agency the Procurement Division may, with the approval of the President, (a) undertake the performance of such procurement, warehousing, or distribution itself, or (b) permit such agency to perform such procurement, warehousing, or distribution, or (c) entrust such performance to some other agency, or (d) avail itself in part of any of these recourses, according as it may deem desirable in the interest of economy and efficiency. When the Procurement Division has prescribed the manner of procurement, warehousing, or distribution of any thing, no agency shall thereafter procure, warehouse, or distribute such thing in any manner other than so prescribed.

The execution of work now performed by the Corps of Engineers of the Army shall remain with said corps, subject to the responsibilities herein vested in the Procurement Division.

The Procurement Division shall also have control of all property, facilities, structures, machinery, equipment, stores, and supplies not necessary to the work of any agency; may have custody thereof or entrust custody to any other agency; and shall furnish the same to agencies as need therefor may arise.

The Fuel Yards of the Bureau of Mines of the Department of Commerce are transferred to the Procurement Office. (As amended by Ex. Ord. No. 6623 of Mar. 1, 1934.)

AMENDMENT OF SECTION BY EX. ORD. 6623

Ex. Ord. No. 6623, Mar. 1, 1934, revoked a final paragraph of section 1 of Ex. Ord. No. 6166, which provided for the abolition of the Federal Employment Stabilization Board and the transfer of its functions to the Federal Emergency Administration of Public Works. Said Ex. Ord. No. 6623 also provided in part as follows:

"It is further ordered that the said Federal Employment Stabilization Board be, and it is hereby, abolished.

"There is hereby established in the Department of Commerce an office to be known as the 'Federal Employment Stabilization Office,' and there are hereby transferred to such office the functions of the Federal Employment Stabilization Board, together with its Director and other personnel, and records, supplies, equipment, and property of every kind.

"The unexpended balances of appropriations and/or allotments of appropriations of the Federal Employment Stabilization Board are hereby transferred to the Federal Employment Stabilization Office, Department of Commerce."

EFFECTIVE DATE

The effective date of Ex. Ord. No. 6166, § 1, as provided for in section 22, post, was extended to Dec. 31, 1933, by Ex. Ord. No. 6224, of July 27, 1933, and the effective date of the last paragraph, subsequently revoked by Ex. Ord. No. 6623, was deferred by Ex. Ord. No. 6624 of Mar. 1, 1934, until such revocation could become effective.

[Subsequent to the effective date of Ex. Ord. No. 6166, § 1, certain functions affected thereby were again transferred as follows: The Public Buildings Branch of the Procurement Division was transferred to Public Buildings Administration within the Federal Works Administration by 1939 Reorg. Plan No. 1, §§ 301, 303, 4 Fed. Reg. 2729; 53 Stat. 1426, 1427; the Federal Employment Stabilization Office, created by Ex. Ord. No. 6166, § 1, as amended by Ex. Ord. No. 6624, was abolished by 1939 Reorg. Plan No. 1, § 4, 4 Fed. Reg. 2727, 53 Stat. 1423, and its functions transferred to the Executive Office of the President.]

SUPERSEDURE OF PARS. 1, 3, AND 5

Section 602(b) of act June 30, 1949, ch. 288, title VI, 63 Stat. 401, eff. July 1, 1949, as renumbered from title V, section 502(b) of said act June 30, 1949 by act Sept. 5, 1950, ch. 849, §§ 6 (a), (b), 7(e), 64 Stat. 583, provided that: "The provisions of the first, third, and fifth paragraphs of section 1 of Executive Order Numbered 6166 of June 10, 1933 [this Ex. Ord.], are hereby superseded, insofar as they relate to any function now administered by the Bureau of Federal Supply except functions with respect to standard contract forms."

§ 2. NATIONAL PARKS, BUILDINGS, AND RESERVATIONS

All functions of administration of public buildings, reservations, national parks, national monuments, and national cemeteries are consolidated in the National Park Service in the Department of the Interior, at the head of which shall be a Director of the National Park Service; except that where deemed desirable there may be excluded from this provision any public building or reservation which is chiefly employed as a facility in the work of a particular agency. This transfer and consolidation of functions shall include, among others, those of the former National Park Service of the Department of the Interior and the following National Cemeteries and Parks of the War Department which are located within the continental limits of the United States:

NATIONAL MILITARY PARKS

Chickamauga and Chattanooga National Military Park, Georgia and Tennessee.
Fort Donelson National Military Park, Tennessee.
Fredericksburg and Spotsylvania County Battle Fields Memorial, Virginia.
Gettysburg National Military Park, Pennsylvania.
Guilford Courthouse National Military Park, North Carolina.
Kings Mountain National Military Park, South Carolina.
Moores Creek National Military Park, North Carolina.
Petersburg National Military Park, Virginia.
Shiloh National Military Park, Tennessee.
Stones River National Military Park, Tennessee.
Vicksburg National Military Park, Mississippi.

NATIONAL PARKS

Abraham Lincoln National Park, Kentucky.
Fort McHenry National Park, Maryland.

BATTLEFIELD SITES

Antietam Battlefield, Maryland.
Appomattox, Virginia.
Brice Cross Roads, Mississippi.
Chalmette Monument and Grounds, Louisiana.
Cowpens, South Carolina.
Fort Necessity, Wharton County, Pennsylvania.
Kenesaw Mountain, Georgia.
Monocacy, Maryland.
Tupelo, Mississippi.
White Plains, New York.

NATIONAL MONUMENTS

Big Hole Battlefield, Beaverhead County, Montana.
Cabrillo Monument, Fort Rosecrans, California.
Castle Pinckney, Charleston, South Carolina.
Father Millet Cross, Fort Niagara, New York.
Fort Marion, St. Augustine, Florida.
Fort Matanzas, Florida.
Fort Pulaski, Georgia.
Meriwether Lewis, Hardin County, Tennessee.
Mound City Group, Chillicothe, Ohio.
Statue of Liberty, Fort Wood, New York.

MISCELLANEOUS MEMORIALS

Camp Blount Tablets, Lincoln County, Tennessee.
Kill Devil Hill Monument, Kitty Hawk, North Carolina.
New Echota Marker, Georgia.
Lee Mansion, Arlington National Cemetery, Virginia.

NATIONAL CEMETERIES

Custer Battlefield, National Cemetery in the State of Montana.
Battleground, District of Columbia.
Antietam (Sharpsburg), Maryland.
Vicksburg, Mississippi.
Gettysburg, Pennsylvania.
Chattanooga, Tennessee.
Fort Donelson (Dover), Tennessee.
Shiloh (Pittsburg Landing), Tennessee.
Stones River (Murfreesboro), Tennessee.
Fredericksburg, Virginia.
Poplar Grove (Petersburg), Virginia.
Yorktown, Virginia.

National cemeteries located in insular possessions under the jurisdiction of the War Department shall be administered by the Bureau of Insular Affairs of the War Department.

The functions of the following agencies are transferred to the National Park Service of the Department of the Interior, and the agencies are abolished:

Arlington Memorial Bridge Commission
Public Buildings Commission
Public Buildings and Public Parks of the National Capital
National Memorial Commission
Rock Creek and Potomac Parkway Commission

Expenditures by the Federal Government for the purposes of the Commission of Fine Arts, the George Rogers Clark Sesquicentennial Commission, and the Rushmore National Commission shall be administered by the Department of the Interior. (As amended by Ex. Ord. No. 6228 of July 28, 1933; Ex. Ord. No. 6614 of Feb. 26, 1934; Ex. Ord. No. 8428 of June 3, 1940, 5 F.R. 2132; and act Mar. 2, 1934. ch. 39, § 1, 48 Stat. 389.)

AMENDMENTS

The enumeration of the National Cemeteries and Parks of the War Department which were transferred to the Department of the Interior was added by Ex. Ord. No. 6228, § 1, of July 28, 1933, and Ex. Ord. No. 8428 of June 3, 1940.

A provision of this section transferring the administration of national cemeteries located in foreign countries to the State Department was revoked by Ex. Ord. No. 6614 of Feb. 26, 1934.

EFFECTIVE DATE

See section 22 of this Ex. Ord. The transfer of national cemeteries located in the insular possessions to the Bureau of Insular Affairs, as provided in this section, was postponed until further order by Ex. Ord. No. 6228, § 3, of July 28, 1933.

§ 3. INVESTIGATIONS

All functions now exercised by the Bureau of Prohibition of the Department of Justice with respect to the granting of permits under the national prohibition laws are transferred to the Division of Internal Revenue in the Treasury Department.

All functions now exercised by the Bureau of Prohibition with respect to investigations and all the functions now performed by the Bureau of Investigation of the Department of Justice are transferred to and consolidated in a Division of Investigation in the Department of Justice, at the head of which shall be a Director of Investigation.

All other functions now performed by the Bureau of Prohibition are transferred to such divisions in the Department of Justice as in the judgment of the Attorney General may be desirable.

§ 4. DISBURSEMENT

The function of disbursement of moneys of the United States exercised by any agency [except United States marshals; the Post Office Department; the Postmaster General; the Board of Trustees of the Postal Savings System, and those disbursement functions of the War Department, Navy Department (including the Marine Corps), and the Panama Canal, not pertaining to departmental salaries in the District of Columbia] is transferred to the [Fiscal Service of the] Treasury Department and, together with the Office of Disbursing Clerk of that department, is consolidated in a Division of Disbursement, at the head of which shall be a Chief Disbursing Officer.

The Division of Disbursement of the Treasury Department is authorized to establish local offices, or to delegate the exercise of its functions locally to officers or employees of other agencies, according as the interests of efficiency and economy may require.

The Division of Disbursement shall disburse moneys only upon the certification of persons by law duly authorized to incur obligations upon behalf of the United States. The function of accountability for improper certification shall be transferred to such persons, and no disbursing officer shall be held accountable therefor. (As amended by Ex. Ord. No. 6728; 1940 Reorg. Plan No. III, § 1(a)(1), eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231; and 1940 Reorg. Plan No. IV, §§ 3, 4, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1234.)

AMENDMENTS

The bracketed provisions in the first sentence of section 4 of Ex. Ord. No. 6166 reflect the changes effected by 1940 Reorg. Plan No. IV, §§ 3, 4, eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1234, 1235, Ex. Ord. No. 6728, and 1940 Reorg. Plan No. III, § 1(a)(1), 5 F.R. 2107, 54 Stat. 1231, respectively.

EFFECTIVE DATE

The effective date of section 4 of Ex. Ord. No. 6166, originally fixed by section 22 of this Ex. Ord., was subsequently postponed as follows: to Dec. 31, 1933, by Ex. Ord. No. 6224 of July 27, 1933; to June 30, 1934 (insofar as not already effected prior to Dec. 31, 1933), by Ex. Ord. No. 6540 of Dec. 28, 1933; to Dec. 31, 1934 (insofar as not already effected prior to June 30, 1934), by Ex. Ord. No. 6727 of May 29, 1934; to June 30, 1935, by Ex. Ord. No. 6927 of Dec. 31, 1934; to Dec. 31, 1935 (insofar as not already effected prior to June 30, 1934), by Ex. Ord. No. 7077 of June 15, 1935; to June 30, 1936 (insofar as not already effected prior to Dec. 31, 1935), by Ex. Ord. No. 7261 of Dec. 31, 1935. Each of these orders contained a provision that the changes therein delayed might be made sooner effective by order of the Secretary of the Treasury approved by the President

§ 5. CLAIMS BY OR AGAINST THE UNITED STATES

The functions of prosecuting in the courts of the United States claims and demands by, and offenses against, the Government of the United States and of defending claims and demands against the Government, and of supervising the work of United States attorneys, marshals, and clerks in connection therewith, now exercised by any agency or officer, are transferred to the Department of Justice.

As to any case referred to the Department of Justice for prosecution or defense in the courts, the function of decision whether and in what manner to prosecute, or to defend, or to compromise, or to appeal, or to abandon prosecution or defense, now exercised by any agency or officer, is transferred to the Department of Justice.

For the exercise of such of his functions as are not transferred to the Department of Justice by the foregoing two paragraphs, the Solicitor of the Treasury is transferred from the Department of Justice to the Treasury Department.

Nothing in this section shall be construed to affect the function of any agency or officer with respect to cases at any stage prior to reference to the Department of Justice for prosecution or defense.

EFFECTIVE DATE

With regard to legal work performed by the Veterans' Administration in connection with suits against the United States arising under section 19 of the

World War Veterans Act, 1924, the effective date of this section was postponed to Sept. 10, 1933, by Ex. Ord. No. 6222 of July 27, 1933.

The effective date of the first paragraph of this section, insofar as it affected the functions of the General Counsel for the Bureau of Internal Revenue, was postponed until Oct. 10, 1933, by Ex. Ord. No. 6244 of Aug. 8, 1933.

§ 6. INSULAR COURTS

The United States Court for China, the District Court of the United States for the Panama Canal Zone, and the District Court of the Virgin Islands of the United States are transferred to the Department of Justice.

EFFECTIVE DATE

Ex. Ord. No. 6243, August 5, 1933, provided that "the effective date of the transfer to the Department of Justice of the District Court of the United States for the Panama Canal Zone is hereby postponed to October 4, 1933."

§ 7. SOLICITORS

The Solicitor for the Department of Commerce is transferred from the Department of Justice to the Department of Commerce.

The Solicitor for the Department of Labor is transferred from the Department of Justice to the Department of Labor.

§ 8. INTERNAL REVENUE

The Bureaus of Internal Revenue and or Industrial Alcohol of the Treasury Department are consolidated in a Division of Internal Revenue, at the head of which shall be a Commissioner of Internal Revenue.

EFFECTIVE DATE

The effective date of section 8 of Ex. Ord. No. 6166, originally fixed by section 22 of the same order, post, was subsequently postponed as follows: to Dec. 31, 1933, by Ex. Ord. No. 6224 of July 27, 1933; to June 30, 1934, by Ex. Ord. No. 6540 of Dec. 28, 1933. Said orders, however, contained a provision whereby the changes thereby delayed might be sooner effected by order of the Secretary of the Treasury approved by the President.

§ 9. ASSISTANT SECRETARY OF COMMERCE

The Assistant Secretary of Commerce for Aeronautics shall be an Assistant Secretary of Commerce and shall perform such functions as the Secretary of Commerce may designate.

§ 10. OFFICIAL REGISTER

The function of preparation of the Official Register is transferred from the Bureau of the Census to the Civil Service Commission.

§ 11. STATISTICS OF CITIES

The function of the Bureau of the Census of the Department of Commerce of compiling statistics of cities under 100,000 population is abolished for the period ending June 30, 1935.

§ 12. SHIPPING BOARD

The functions of the United States Shipping Board including those over and in respect to the United States Shipping Board Merchant Fleet Corporation are transferred to the Department of Commerce, and the United States Shipping Board is abolished.

§ 13. NATIONAL SCREW THREAD COMMISSION

The National Screw Thread Commission is abolished, and its records, property, facilities, equipment, and supplies are transferred to the Department of Commerce.

§ 14. IMMIGRATION AND NATURALIZATION

The Bureaus of Immigration and of Naturalization of the Department of Labor are consolidated as an Immigration and Naturalization Service of the Department of Labor, at the head of which shall be a Commissioner of Immigration and Naturalization.

§ 15. VOCATIONAL EDUCATION

The functions of the Federal Board for Vocational Education are transferred to the Department of the Interior, and the Board shall act in an advisory capacity without compensation.

§ 16. APPORTIONMENT OF APPROPRIATIONS

The functions of making, waiving, and modifying apportionments of appropriations are transferred to the Director of the Bureau of the Budget.

§ 17. COORDINATING SERVICE

The Federal Coordinating Service is abolished.

EFFECTIVE DATE

The effective date of this section originally fixed by section 22 of this Ex. Ord., was subsequently deferred to Oct. 10, 1933, by Ex. Ord. No. 6239 of Aug. 2, 1933.

§ 18. FUNCTIONS ABOLISHED

Section 18 of Ex. Ord. No. 6166, which provided for the partial abolition of cooperative vocational education payments for agricultural experiment stations; cooperative agricultural extension work; and endowment and maintenance of colleges for the benefit of agriculture and the mechanical arts, was revoked by Ex. Ord. No. 6536 of Feb. 6, 1934.

§ 19. GENERAL PROVISIONS

Each agency, all the functions of which are transferred to or consolidated with another agency, is abolished.

The records pertaining to an abolished agency or a function disposed of, disposition of which is not elsewhere herein provided for, shall be transferred to the successor. If there be no successor agency, and such abolished agency be within a department, said records shall be disposed of as the head of such department may direct.

The property, facilities, equipment, and supplies employed in the work of an abolished agency or the exercise of a function disposed of, disposition of which is not elsewhere herein provided for, shall, to the extent required, be transferred to the successor agency. Other such property, facilities, equipment, and supplies shall be transferred to the Procurement Division.

All personnel employed in connection with the work of an abolished agency or function disposed of shall be separated from the service of the United States, except that the head of any successor agency, subject to my approval, may, within a period of four months after transfer or consolidation, reappoint any of such personnel required for the work of the successor agency without reexamination or loss of civil-service status.

EFFECTIVE DATE

The effective date of the last paragraph of this section, originally fixed by section 22, post, was deferred as to employees separated from service under sections 2 and 15, ante, until Sept. 30, 1933, by Ex. Ord. No. 6227 of July 27, 1933. As to employees separated under section 12, ante, a similar deferment to Sept. 30, 1933, was made by Ex. Ord. No. 6245 of Aug. 9, 1933.

§ 20. APPROPRIATIONS

Such portions of the unexpended balances of appropriations for any abolished agency or function disposed of shall be transferred to the successor agency as the Director of the Budget shall deem necessary.

Unexpended balances of appropriations for an abolished agency or function disposed of, not so transferred by the Director of the Budget, shall, in accordance with law, be impounded and returned to the Treasury.

§ 21. DEFINITIONS

As used in this order—

"Agency" means any commission, independent establishment, board, bureau, division, service, or office in the executive branch of the Government.

"Abolished agency" means any agency which is abolished, transferred, or consolidated.

"Successor agency" means any agency to which is transferred some other agency or function, or which results from the consolidation of other agencies or functions.

"Function disposed of" means any function eliminated or transferred.

§ 22. EFFECTIVE DATE

In accordance with law, this order shall become effective 61 days from its date: *Provided*, That in case it shall appear to the President that the interests of economy require that any transfer, consolidation, or elimination be delayed beyond the date this order becomes effective, he may, in his discretion, fix a later date therefor, and he may for like cause further defer such date from time to time. (Promulgated June 10, 1933.)

[Postponements of effective date of certain transfers, etc., see notes under the various sections of this Executive Order effecting those transfers, etc.]

Executive Order No. 7261, promulgated December 31, 1935, provided that "except as hereinafter provided, the transfers, consolidations, and eliminations contemplated by section 4 of Executive Order No. 6166 of June 10, 1933, as amended, which are not effected prior to December 31, 1935, pursuant to Executive Order No. 6224 of July 27, 1933, Executive Order No. 6540 of December 28, 1933, Executive Order No. 6727 of May 29, 1934, Executive Order No. 6927 of December 21, 1934, and Executive Order No. 7077 of June 15, 1935, together with the operation of all other provisions of Executive Order No. 6166 of June 10, 1933, as amended, in so far as they relate to said section 4, be further delayed until June 30, 1936: Provided, that any transfer, consolidation, or elimination, in whole or in part, under said section 4, including any other provisions of the said order of June 10, 1933, in so far as they relate to section 4 thereof, may be made operative and effective between December 31, 1935, and June 30, 1936, by order of the Secretary of the Treasury, approved by the President."

Executive Order No. 7980, promulgated September 29, 1938, provided: "That the transfers, consolidations, and eliminations contemplated by section 4 of Executive Order No. 6166 of June 10, 1933, as amended, together with the operation of all other provisions of Executive Order No. 6166 of June 10, 1933, as amended, so far as they relate to the said section 4, be further delayed until December 31, 1938, with respect to the function of disbursement now exercised by United States Marshals under the Department of Justice."

Functions relating to disbursement by United States marshals which would otherwise have become functions of Treasury Department on July 1, 1940, by virtue of Ex. Ord. No. 6166, as amended, were transferred to and vested in Department of Justice to be exercised by United States marshals under supervision of Attorney General in accordance with existing statutes pertaining to such functions, by Reorg. Plan No. IV of 1940, § 3, eff. June 30, 1940. See, also, sections 13-15 of said plan for provisions relating to transfer of functions of department heads, records, property, personnel, and funds.

Functions relating to disbursement of postal revenues and all other funds under jurisdiction of Post Office Department, Postmaster General, and Board of Trustees of Postal Savings System which would otherwise have become functions of Treasury Department on July 1, 1940, by virture of Ex. Ord. No. 6166, as amended, set out in note under this section, were transferred to and vested in (a) said Board of Trustees as to postal savings disbursements, and (b) Post Office Department as to all other disbursements involved, such functions to be exercised by postmasters and other authorized disbursing agents of Post Office Department and of Postal Savings System in accordance with existing statutes pertaining to such functions, by Reorg. Plan No. IV of 1940, § 4, eff. June 30, 1940. See, also, sections 13-15 of said plan for provisions relating to transfer of functions of department heads, records, property, personnel, and funds.

Public Buildings Branch of Procurement Division and its functions and personnel were transferred to Public Buildings Administration, and functions of Secretary of Agriculture and Director of Procurement Division relating to administration thereof and to selection of sites for public buildings were transferred to Federal Works Administrator by Reorg. Plan No. I of 1939, §§ 301, 303, effective July 1, 1939. See also sections 307-310 of said plan for provisions relating to transfer of records, property, funds, and personnel.

EXECUTIVE ORDER NO. 11007

Ex. Ord. No. 11007, Feb. 27, 1962, 27 F.R. 1875, formerly set out as a note under this section, which related to regulations for formation and use of advisory committees, was superseded by Ex. Ord. No. 11671, June 5, 1972, 37 F.R. 11307.

EXECUTIVE ORDER NO. 11671

Ex. Ord. No. 11671, June 5, 1972, 37 F.R. 11307, formerly set out as a note under this section, which related to committee management, was superseded by Ex. Ord. No. 11686, Oct. 7, 1972, 37 F.R. 21421, set out in the Appendix to this title.

CROSS REFERENCES

Federal pay structures, comparisons with private enterprise, Presidential policies and regulations, see section 5301 et seq. of this title.

Text of Reorganization Plans, see Appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 903 of this title.

§ 902. Definitions

For the purpose of this chapter—

(1) "agency" means—

(A) an Executive agency or part thereof;

(B) an office or officer in the executive branch; and

(C) any and all parts of the government of the District of Columbia other than the courts thereof;

but does not include the General Accounting Office or the Comptroller General of the United States;

(2) "reorganization" means a transfer, consolidation, coordination, authorization, or abolition, referred to in section 903 of this title; and

(3) "officer" is not limited by section 2104 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 394; Pub. L. 90-83, § 1(98), Sept. 11, 1967, 81 Stat. 220.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)	5 U.S.C. 133z-5	June 20, 1949, ch. 226, § 7, 63 Stat. 205.
(2)	5 U.S.C. 133z-6	June 20, 1949, ch. 226, § 8, 63 Stat. 206.

In paragraph (1)(A), the words "an Executive agency or part thereof" are coextensive with and substituted for "any executive department, commission, council, independent establishment, Government corporation, board, bureau, division, service, . . . authority, administration, or other establishment, in the executive branch of the Government" and to conform to the definition in section 105.

In paragraph (1)(B), the words "an office or officer in the civil service or uniformed services in or under an Executive agency" are substituted for "office, officer, . . . in the executive branch of the Government" to conform to the definitions in sections 105, 2101, and 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends section 902 of title 5, United States Code, so as to preserve the application of the source statute for section 902 (sec. 7 of the Reorganization Act of 1949). In the codification of title 5 by Public Law 89-554, that application was inadvertently restricted due to the operation of section 2104 of title 5, providing a title-wide definition of "officer." Briefly, that section defines "officer" as a civil appointive officer of the Federal Government. In the Reorganization Act of 1949, the word "officer" was not defined, and has been construed to include not only civil appointive officers, but uniformed officers, the President, and officers of the government of the District of Columbia. Thus, this section amends section 902 of title 5 by inserting a paragraph providing that the title-wide definition of officer is inapplicable to chapter 9 of title 5. Also, paragraph (1)(B) of section 902 is amended so that the wording thereof is identical to that formerly appearing in section 7 of the Reorganization Act of 1949.

CODIFICATION

Section 902(a) of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 60e-2(b) of Title 2, The Congress.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-83 effective Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

§ 903. Reorganization plans

(a) Whenever the President, after investigation, finds that changes in the organization of agencies are necessary to carry out any policy set forth in section 901(a) of this title, he shall prepare a reorganization plan specifying the reorganizations he finds are necessary. Any plan may provide for—

(1) the transfer of the whole or a part of an agency, or of the whole or a part of the functions thereof, to the jurisdiction and control of another agency;

(2) the abolition of all or a part of the functions of an agency;

(3) the consolidation or coordination of the whole or a part of an agency, or of the whole or a part of the functions thereof, with the whole or a part of another agency or the functions thereof;

(4) the consolidation or coordination of a part of an agency or the functions thereof with another part of the same agency or the functions thereof;

(5) the authorization of an officer to delegate any of his functions; or

(6) the abolition of the whole or a part of an agency which agency or part does not have, or on the taking effect of the reorganization plan will not have, any functions.

The President shall transmit the plan (bearing an identification number) to the Congress together with a declaration that, with respect to each reorganization included in the plan, he has found that the reorganization is necessary to carry out any policy set forth in section 901(a) of this title.

(b) The President shall have a reorganization plan delivered to both Houses on the same day and to each House while it is in session, and furthermore shall not transmit more than one such plan to Congress within any period of thirty consecutive days. In his message transmitting a reorganization plan, the President shall specify with respect to each abolition of a function included in the plan the statutory authority for the exercise of the function and the reduction of expenditures (itemized so far as practicable) that it is probable will be brought about by the taking effect of the reorganizations included in the plan.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 394; Pub. L. 90-83, § 1(99), Sept. 11, 1967, 81 Stat. 220; Pub. L. 92-179, § 2, Dec. 10, 1971, 85 Stat. 574.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 133z-1	June 20, 1949, ch. 226, § 3, 63 Stat. 203.

In subsection (a)(5), the words "officer in the civil service or uniformed services" are substituted for "officer" to conform to the definitions in sections 2101 and 2104.

In subsection (b), the words "The President shall have a reorganization plan delivered" as substituted for "The delivery . . . shall be".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section 1(99) amends section 903(a)(5) of title 5, United States Code, to conform to the wording formerly appearing in the source statute (sec. 3(5) of the Reorganization Act of 1949). In this regard, the explanation appearing in section 1(98) of this bill is equally applicable to this section.

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-179, § 2(a), restructured provisions covering requirements of findings of fact and certification by placing in a position preceding par. (1) provisions formerly set out following par. (6).

Subsec. (b). Pub. L. 92-179, § 2(b), inserted provisions limiting to one plan within any period of thirty consecutive days the allowable number of plans submitted.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-83 effective Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

CROSS REFERENCES

Text of reorganization plans, see Appendix to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 902, 904 of this title.

§ 904. Additional contents of reorganization plans

A reorganization plan transmitted by the President under section 903 of this title—

(1) may change, in such cases as the President considers necessary, the name of an agency affected by a reorganization and the title of its head; and shall designate the name of an agency resulting from a reorganization and the title of its head;

(2) may provide for the appointment and pay of the head and one or more officers of an agency (including an agency resulting from a consolidation or other type of reorganization) if the President finds, and in his message transmitting the plan declares, that by reason of a reorganization made by the plan the provisions are necessary;

(3) shall provide for the transfer or other disposition of the records, property, and personnel affected by a reorganization;

(4) shall provide for the transfer of such unexpended balances of appropriations, and of other funds, available for use in connection with a function or agency affected by a reorganization, as the President considers necessary by reason of the reorganization for use in connection with the functions affected by the reorganization, or for the use of the agency which shall have the functions after the reorganization plan is effective; and

(5) shall provide for terminating the affairs of an agency abolished.

A reorganization plan transmitted by the President containing provisions authorized by paragraph (2) of this section may provide that the head of an agency be an individual or a commission or board with more than one member. In the case of an appointment of the head of such an agency, the term of office may not be fixed at more than four years, the pay may not be at a rate in excess of that found by the President to be applicable to comparable officers in the executive branch, and if the appointment is not to a position in the competitive service, it shall be by the President, by and with the advice and consent of the Senate, except that, in the case of an officer of the government of the District of Columbia, it may be by the Commissioner or other body or officer of that government designated in the plan. Any reorganization plan transmitted by the President containing provisions required by paragraph (4) of this section, shall provide for the transfer of unexpended balances only if such balances are used for the purposes for which the appropriation was originally made.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 395; Pub. L. 92-179, § 3, Dec. 10, 1971, 85 Stat. 575.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 133z-2	June 20, 1949, ch. 226, § 4, 63 Stat. 204.

In paragraph (1), the words "may change" are substituted for "shall change" in view of the discretionary grant of authority reflected by the words "in such cases as the President considers necessary".

In paragraph (2), the words "competitive service" are substituted for "classified civil service" to conform to the definition in section 2102.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1971—Pub. L. 92-179 revised the form of the provisions covering the elements which a reorganization plan contains by moving provisions formerly set out in par. (2) to a position following par. (5).

§ 905. Limitations on powers

(a) A reorganization plan may not provide for, and a reorganization under this chapter may not have the effect of—

(1) creating a new Executive department, abolishing or transferring an Executive department or all the functions thereof, or consolidating two or more Executive departments or all the functions thereof;

(2) continuing an agency beyond the period authorized by law for its existence or beyond the time when it would have terminated if the reorganization had not been made;

(3) continuing a function beyond the period authorized by law for its exercise or beyond the time when it would have terminated if the reorganization had not been made;

(4) authorizing an agency to exercise a function which is not expressly authorized by law at the time the plan is transmitted to Congress;

(5) increasing the term of an office beyond that provided by law for the office;

(6) transferring to or consolidating with another agency the government of the District of Columbia or all the functions thereof which are subject to this chapter, or abolishing that government or all those functions; or

(7) dealing with more than one logically consistent subject matter.

(b) A provision contained in a reorganization plan may take effect only if the plan is transmitted to Congress before April 1, 1973.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 396; Pub. L. 91-5, Mar. 27, 1969, 83 Stat. 6; Pub. L. 92-179, § 4, Dec. 10, 1971, 85 Stat. 576.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 133z-3(a)	June 20, 1949, ch. 226, § 5(a), 63 Stat. 205. July 2, 1964, Pub. L. 88-351, § 2, 78 Stat. 240.
(b)	5 U.S.C. 133z-3(b)	June 20, 1949, ch. 226, § 5(b), 63 Stat. 205. Feb. 11, 1953, ch. 3, 67 Stat. 4. Mar. 25, 1955, ch. 16, 69 Stat. 14. Sept. 4, 1957, Pub. L. 85-286, § 1, 71 Stat. 611. Apr. 7, 1961, Pub. L. 87-18, 75 Stat. 41. July 2, 1964, Pub. L. 88-351, § 1, 78 Stat. 240. June 18, 1965, Pub. L. 89-43, 79 Stat. 135.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1971—Subsec. (a). Pub. L. 92-179, § 4(a), added par. (7).

Subsec. (b). Pub. L. 92-179, § 4(b), substituted "April 1, 1973" for "April 1, 1971".

1969—Subsec. (b). Pub. L. 91-5 substituted "April 1, 1971" for "December 31, 1968".

§ 906. Effective date and publication of reorganization plans

(a) Except as otherwise provided under subsection (c) of this section, a reorganization plan is effective at the end of the first period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it unless, between the date of transmittal and the end of the 60-day period, either House passes a resolution stating in substance that that House does not favor the reorganization plan.

(b) For the purpose of subsection (a) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 60-day period.

(c) Under provisions contained in a reorganization plan, a provision of the plan may be effective at a time later than the date on which the plan otherwise is effective.

(d) A reorganization plan which is effective shall be printed (1) in the Statutes at Large in the same volume as the public laws and (2) in the Federal Register.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 396.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(c)	5 U.S.C. 133z-4	June 20, 1949, ch. 226, § 6, 63 Stat. 205. Sept. 4, 1957, Pub. L. 85-286, § 2, 71 Stat. 611.
(d)	5 U.S.C. 133z-9	June 20, 1949, ch. 226, § 11, 63 Stat. 206.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 907. Effect on other laws, pending legal proceedings, and unexpended appropriations

(a) A statute enacted, and a regulation or other action made, prescribed, issued, granted, or performed in respect of or by an agency or function affected by a reorganization under this chapter, before the effective date of the reorganization, has, except to the extent rescinded, modified, superseded, or made inapplicable by or under authority of law or by the abolition of a function, the same effect as if the reorganization had not been made. However, if the statute, regulation, or other action has vested the functions in the agency from which it is removed under the reorganization plan, the function, insofar as it is to be exercised after the plan becomes effective, shall be deemed as vested in the agency under which the function is placed by the plan.

(b) For the purpose of subsection (a) of this section, "regulation or other action" means a regulation, rule, order, policy, determination, directive, authorization, permit, privilege, requirement, designation, or other action.

(c) A suit, action, or other proceeding lawfully commenced by or against the head of an agency or other officer of the United States, in his official capacity or in relation to the discharge of his official duties, does not abate by reason of the taking effect of a reorganization plan under this chapter. On motion or supplemental petition filed at any time within 12 months after the reorganization plan takes effect, showing a necessity for a survival of the suit, action, or other proceeding to obtain a settlement of the questions involved, the court may allow the suit, action, or other proceeding to be maintained by or against the successor of the head or officer under the reorganization effected by the plan or, if there is no successor, against such agency or officer as the President designates.

(d) The appropriations or portions of appropriations unexpended by reason of the operation of this chapter may not be used for any purpose, but shall revert to the Treasury.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 396.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(c)	5 U.S.C. 133z-7	June 20, 1949, ch. 226, § 9, 63 Stat. 206.
(d)	5 U.S.C. 133z-8	June 20, 1949, ch. 226, § 10, 63 Stat. 206.

In subsections (a) and (c), the words "the provisions of" in the phrase "under this chapter" are omitted as unnecessary.

In subsection (c), the words "the suit, action, or other proceeding" are substituted for "the same".

In subsection (d), the words "shall revert" are substituted for "shall be . . . returned", and the words "impounded and" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 908. Rules of Senate and House of Representatives on reorganization plans

Sections 909-913 of this title are enacted by Congress—

(1) as an exercise of the rule-making power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by section 909 of this title; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 397.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 133z-10	June 20, 1949, ch. 226, § 201, 63 Stat. 206.

The words "Sections 909-913 of this title" are substituted for "The following sections of this title" to reflect the codification of sections 202-206 of Title II of the Act of June 20, 1949.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 909 of this title; title 22 section 2587.

§ 909. Terms of resolution

For the purpose of sections 908-913 of this title, "resolution" means only a resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the —— does not favor the reorganization plan numbered —— transmitted to Congress by the President on ——, 19——.", the first blank space therein being filled with the name of the resolving House and the other blank spaces therein being appropriately filled; but does not include a resolution which specifies more than one reorganization plan.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 397.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 133z-11	June 20, 1949, ch. 226, § 202, 63 Stat. 207.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 908 of this title; title 22 section 2587.

§ 910. Reference of resolution to committee

A resolution with respect to a reorganization plan shall be referred to a committee (and all resolutions with respect to the same plan shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives, as the case may be.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 397.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 133z-12	June 20, 1949, ch. 226, § 203, 63 Stat. 207.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in sections 908, 909 of this title; title 22 section 2587.

§ 911. Discharge of committee considering resolution

(a) If the committee to which a resolution with respect to a reorganization plan has been referred has not reported it at the end of 20 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the reorganization plan which has been referred to the committee.

(b) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same reorganization plan), and debate thereon shall be limited to not more than 1 hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(c) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same reorganization plan.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 397; Pub. L. 92-179, § 5, Dec. 10, 1971, 85 Stat. 576.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 133z-13	June 20, 1949, ch. 226, § 204, 63 Stat. 207.

In subsection (a), the words "at the end of 10 calendar days . . . it is" are substituted for "before the expiration of ten calendar days . . . it shall then (but not before) be".

In subsection (b), the words "A motion to discharge" are substituted for "Such motion".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1971—Subsec. (a). Pub. L. 92-179 substituted "20 calendar days" for "10 calendar days".

Section Referred to in Other Sections

This section is referred to in sections 908, 909 of this title; title 22 section 2587.

§ 912. Procedure after report or discharge of committee; debate

(a) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to a reorganization plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(b) Debate on the resolution shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 398.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 133z-14	June 20, 1949, ch. 226, § 205, 63 Stat. 207.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 908, 909 of this title; title 22 section 2587; title 42 section 2941.

§ 913. Decisions without debate on motion to postpone or proceed

(a) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to a reorganization plan, and motions to proceed to the consideration of other business, shall be decided without debate.

(b) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to a reorganization plan shall be decided without debate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 398.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 133z-15	June 20, 1949, ch. 226, § 206, 63 Stat. 207.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CODIFICATION

Section 931 of former Title 5, Executive Departments and Government Officers and Employees, was transferred to section 60e-3 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 908, 909 of this title; title 22 section 2587.

PART II—THE UNITED STATES CIVIL SERVICE COMMISSION

Chap.		Sec.
11.	Organization	1101
13.	Special Authority	1301
15.	Political Activity of Certain State and Local Employees	1501

CHAPTER 11—ORGANIZATION

Sec.
1101. Appointment of Commissioners.
1102. Term of office; filling vacancies; removal.
1103. Chairman; Vice Chairman; Executive Director.
1104. Functions of Chairman.
1105. Boards of examiners.

§ 1101. Appointment of Commissioners

The United States Civil Service Commission is composed of three members appointed by the President, by and with the advice and consent of the Senate, not more than two of whom may be adherents of the same political party and none of whom may hold another office or position in the Government of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 398.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 632 (1st par.).	Jan. 16, 1883, ch. 27, § 1 (1st par.), 22 Stat. 403.

The words "official place under the United States" are changed to "another office or position in the Government" of the "United States" to conform to the present legislative use of "office" and "position".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EXECUTIVE ORDER NO. 10729

Ex. Ord. No. 10729, Sept. 16, 1957, 22 F.R. 7449, which established the position of the Special Assistant to the President for Personnel Management, was revoked by Ex. Ord. No. 11205, Mar. 15, 1965, 30 F.R. 3513.

EX. ORD. NO. 11205. REVOCATION OF EXECUTIVE ORDER NO. 10729

Ex. Ord. No. 11205, Mar. 15, 1965, 30 F.R. 3513, provided:

By virtue of the authority vested in me as President of the United States, the position of Special Assistant to the President for Personnel Management, established by Executive Order No. 10729 of September 16, 1957, is abolished, and that Order is hereby revoked.

LYNDON B. JOHNSON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1102 of this title.

§ 1102. Term of office; filling vacancies; removal

(a) The term of office of each Civil Service Commissioner is 6 years. The term of one Commissioner ends on March 1 of each odd-numbered year.

(b) A Commissioner appointed to fill a vacancy occurring before the end of the term of office of his predecessor serves for the remainder of that term. The appointment is subject to the requirements of section 1101 of this title.

(c) When the term of office of a Commissioner ends, he may continue to serve until his successor is appointed and has qualified.

(d) The President may remove a Commissioner.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 399.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 632 (2d-4th pars.).	Jan. 16, 1883, ch. 27, § 1 (2d, 3d pars.), 22 Stat. 403.
		July 31, 1956, ch. 804, § 201 (a), 70 Stat. 742.

In subsection (a), the second sentence is substituted for original language concerning designation of Commissioners to serve six, four, and two years, respectively, as that provision is executed.

The section is reorganized to place the statutes relating to vacancies together, and redundancies are eliminated. Provisions relating to pay and travel expenses of Commissioners are omitted as superseded by the Act of Aug. 14, 1964, Pub. L. 88-426, § 303(c)(18), (d)(66), 78 Stat. 417, 419, and Act of June 9, 1949, ch. 185, 63 Stat. 166, respectively, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 1103. Chairman; Vice Chairman; Executive Director

(a) The President shall from time to time designate one of the Commissioners as the presiding head of the Civil Service Commission with the title of "Chairman, United States Civil Service Commission." The Chairman is the chief executive and administrative officer of the Commission.

(b) The President shall from time to time designate one of the Commissioners as Vice Chairman of the Commission. During the absence or disability of the Chairman, or when the office is vacant, the Vice Chairman shall perform the functions vested in the Chairman by section 1104 of this title.

(c) During the absence or disability of both the Chairman and the Vice Chairman, or when both offices are vacant, the remaining Commissioner shall perform the functions vested in the Chairman by section 1104 of this title.

(d) There is under the Chairman an Executive director who is appointed in the competitive service by the Chairman. During the absence or disability of all three Commissioners, or when the offices of the three Commissioners are vacant, the Executive Director shall perform the functions vested in the Chairman by section 1104 of this title. However, the Executive Director may not sit as a member or acting member of the Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 399.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	[Uncodified]	1949 Reorg. Plan No. 5, §§ 1, 2(a) (35th through 46th words), 3, eff. Aug. 20, 1949, 63 Stat. 1067, 1069.
....	5 U.S.C. 632 (5th par.).	July 31, 1956, ch. 804, § 201 (b), 70 Stat. 742.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 1104. Functions of Chairman

(a) The following functions are vested in the Chairman, United States Civil Service Commission, and shall be performed by him or, subject to his direction and control, by such employees under his jurisdiction as he designates—

(1) acting with Civil Service Commission boards of examiners, so far as practicable, to secure accuracy, uniformity, and justice in their proceedings;

(2) appointing individuals employed under the Commission, including an employee to have such functions and duties with respect to retirement, life insurance, and health benefits programs as the Commission may prescribe, except that—

(A) employees who are engaged regularly and full time in assisting the Commission in the performance of functions reserved to it by subsection (b) of this section are appointed by the Commission; and

(B) the regional directors and the heads of the major administrative units reporting directly to the Chairman or Executive Director are appointed by the Chairman only after consultation with the other Commissioners;

(3) directing, and supervising activities of, employees of the Commission, distributing business among employees and organizational units of the Commission, and directing the internal management of the affairs of the Commission, except that the functions named by this paragraph do not include functions with respect to employees whose appointments remain vested in the Commission by paragraph (2)(A) of this subsection;

(4) directing the preparation of requests for appropriations and the use and expenditure of funds;

(5) executing, administering, and enforcing—

(A) the civil service rules and regulations of the President and the Commission and the statutes governing the same; and

(B) the other activities of the Commission including retirement and classification activities; and

(6) reviewing the operations under chapter 87 of this title and advising the Commission on matters of policy relating to its activities thereunder.

(b) The functions named by subsection (a)(5) of this section do not include functions of the Commission with respect to—

(1) the preparation of rules under section 1301 of this title, and the making of an annual report under section 1308(a)(1) of this title;

(2) the prescription of rules, regulations, or similar policy directives;

(3) the prevention of pernicious political activities, including functions under chapter 15 and section 1302(d) of this title;

(4) the hearing or providing for the hearing of appeals, including appeals with respect to examination ratings, veterans' preference, racial and religious discrimination, disciplinary action, performance ratings, and dismissals, and the taking of final action on those appeals;

(5) the recommendation to the President for transmittal to Congress of such legislative or other measures as will promote an efficient civil service and a systematic application of merit system principles, including measures relating to the selection, promotion, transfer, performance, pay, conditions of service, tenure, and separation of employees;

(6) the investigation of matters pertaining to the administration of functions of the Commission or Chairman; or

(7) the submission of requests for appropriations to the Bureau of the Budget.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 399; Pub. L. 90-83, § 1(2), Sept. 11, 1967, 81 Stat. 195.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	[Uncodified]	1949 Reorg. Plan No. 5, § 2 (a) (less 35th through 46th words), (b), eff. Aug. 20, 1949, 63 Stat. 1067.
....	5 U.S.C. 3013 (a) (1st sentence, less 10th through 24th words).	Sept. 28, 1959, Pub. L. 86-382, § 14(a) (1st sentence, less 10th through 24th words), 73 Stat. 716.

In the first sentence, the word "officers" is omitted as included in "employees".

Subsection (a)(1) is added on authority of the words "to secure accuracy, uniformity, and justice in all their proceedings" in the first sentence of former section 635, which is carried into section 1105. The function in this paragraph was transferred from the chief examiner to the Chairman of the United States Civil Service Commission by 1949 Reorg. Plan No. 5, § 2(a)(2).

In subsection (a)(4), the words "requests for appropriations" are substituted for "budget estimates" on authority of the Act of Sept. 12, 1950, ch. 946, § 102(f), 64 Stat. 833; 31 U.S.C. 22.

In subsection (b)(2), the word "prescription" is substituted for "promulgation" and the words "now vested in the Commission" are omitted as surplusage.

In subsection (b)(4), the words "as is now authorized to be taken by the Commission" are omitted as surplusage.

In subsection (b)(5), the words "civil service" are substituted for "Federal service".

In subsection (b)(7), the words "submission of requests for appropriations" are substituted for "revision and submission . . . of budget estimates" on authority of the Act of Sept. 12, 1950, ch. 946, § 102(f), 64 Stat. 833; 31 U.S.C. 22.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
1104(a) (6)	5:8713(a)	[None.]
	[Uncodified]	1965 Reorg. Plan No. 4, §§ 11(a), (e) (as applicable to (a)) 12 (as applicable to § 11(a)), 13 (as applicable to § 11(a)) eff. July 27, 1965, 79 Stat. 1322.

The paragraph added by this section is based on 5 U.S.C. 8713(a), and is restated to reflect the effect of sections 11-13 of 1965 Reorganization Plan No. 4, effective July 27, 1965.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan. No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to this title. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1103, 5109 of this title.

§ 1105. Boards of examiners

(a) The Civil Service Commission shall, in the District of Columbia, and in one or more places in each State and territory or possession of the United States where examinations are to be held, designated at least three individuals in the service of the United States, residing in the State or territory or possession, to be members of Civil Service Commission boards of examiners. The Commission shall consult the head of the agency in which the individuals are serving before designating them as members of a board of examiners. The Commission may at any time substitute another individual residing in the State or territory or possession for one serving as a member of a board of examiners. The boards of examiners shall be so located as to make it reasonably convenient and inexpensive for applicants to attend before them.

(b) The proceedings of the boards of examiners are open to the Chairman, United States Civil Service Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 400.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 635 (less last 24 words of 6th sentence, and less 7th sentence).	Jan. 16, 1883, ch. 27, § 3 (less last 24 words of 6th sentence, and less 7th sentence), 22 Stat. 404.
....	[Uncodified]	1949 Reorg. Plan No. 5, § 4, eff. Aug. 19, 1949, 63 Stat. 1069.

In subsection (a), the words "the District of Columbia" are substituted for "Washington". The words "at least three individuals in the service of the United States" are substituted for a "a suitable number of persons, not less than three, in the official service of the United States". So much of the first three sentences of former section 635 as related to the offices of the Chief Examiner and the Secretary are omitted because the offices were abolished by 1949 Reorg. Plan No. 5, § 4. So much of the first sentence as imposed a duty on the Chief Examiner, under the Commission's direction, to act with the examining boards to secure accuracy, uniformity, and justice in all their proceedings is restated in section 1104(a)(1). The fourth sentence of former section 635, authorizing the Commission to employ a stenographer and a messenger, is omitted as obsolete. The remainder is rewritten for clarity. The text of 1949 Reorg. Plan No. 5, § 4, is omitted as executed.

In subsection (b), the words "Chairman, United States Civil Service Commission" are substituted for "chief examiner" on authority of 1949 Reorg. Plan No. 5, § 2(a)(2). The words "at all times" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CHAPTER 13—SPECIAL AUTHORITY

Sec.

1301. Rules.
1302. Regulations.
1303. Investigations; reports.
1304. Loyalty investigations; reports; revolving fund.
1305. Hearing examiners.
1306. Oaths to witnesses.
1307. Minutes.
1308. Annual reports.

§ 1301. Rules

The Civil Service Commission shall aid the President, as he may request, in preparing the rules he prescribes under this title for the administration of the competitive service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 401.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 633(1) (function of Civil Service Commission).	Jan. 16, 1883, ch. 27, § 2(1) (function of Civil Service Commission), 22 Stat. 403.

The authority of the President to prescribe rules is carried into sections 2951, 3302, 3304(a), 3306(a), 3321, 7152, 7153, 7321, and 7322 of this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 1104 of this title.

§ 1302. Regulations

(a) The Civil Service Commission, subject to the rules prescribed by the President under this title for the administration of the competitive service, shall prescribe regulations for, control, supervise, and preserve the records of, examinations for the competitive service.

(b) The Commission shall prescribe and enforce regulations for the administration of the provisions of this title, and Executive orders issued in furtherance thereof, that implement the Congressional policy that preference shall be given to preference eligibles in certification for appointment, and in appointment, reinstatement, reemployment, and retention, in the competitive service in Executive agencies, permanent or temporary, and in the government of the District of Columbia.

(c) The Commission shall prescribe regulations for the administration of the provisions of this title that implement the Congressional policy that preference shall be given to preference eligibles in certification for appointment, and in appointment, reinstatement, reemployment, and retention, in the excepted service in Executive agencies, permanent or temporary, and in the government of the District of Columbia.

(d) The Commission may prescribe reasonable procedure and regulations for the administration of its functions under chapter 15 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 401.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 633 (2)7 (last 17 words), (3) (less last 10 words).	Jan. 16, 1883, ch. 27, §§ 2(2)7 (last 17 words), (3) (less last 10 words), 22 Stat. 404.
(b)	5 U.S.C. 851 (1st 76 words), 868 (less proviso).	June 27, 1944, ch. 287, §§ 2 (1st 76 words), 19, 58 Stat. 387, 391.
(c)	5 U.S.C. 851 (1st 76 words), 860.	June 27, 1944, ch. 287, §§ 2 (1st 76 words), 11, 58 Stat. 387, 390.
(d)	5 U.S.C. 118k(d) (1st sentence).	July 19, 1940, ch. 640 § 4 "Sec. 12(d) (1st sentence)", 54 Stat. 769.

Subsection (a) is based on former section 633(3) (less last 10 words). The regulation-making power conferred by that section covers the power conferred by former section 633(2)7 (last 17 words) which is, therefore, omitted. The requirement of notice is preserved in section 3304. The words "through its members or the examiners" are omitted as unnecessary in view of section 1104. The authority of the President to prescribe rules, based on former section 633(1) is carried into sections 2951, 3302, 3304(a), 3306(a), 3321, 7152, 7153, 7321, and 7322 of this title.

In subsections (b)-(d), the word "rules" is omitted as included in "regulations".

The provisions of the Veterans' Preference Act of 1944 (former sections 851-869) to which the regulation-making authority of subsections (b) and (c) apply are carried into sections 2108, 3305(b), 3306(a)(2), 3308-3320, 3351, 3363, 3364, and 7701, subchapter I of chapter 35, and subchapter II of chapter 75 of this title. The first 76 words of former section 851 are added here to preserve the general statement of policy in the light of which the substantive provisions that formerly comprised the Veterans' Preference Act of 1944 are to be interpreted. See *Elder* v. *Brannan*, 241 U.S. 277, 286. In subsection (b), the words "in the competitive service in Executive agencies, permanent or temporary, and in the government of the District of Columbia", and in subsection (c) the words "in the excepted service in Executive agencies, permanent or temporary, and in the government of the District of Columbia" are coextensive with and substituted for "in civilian positions in all establishments, agencies, bureaus, administrations, projects, and departments of the Government, permanent or temporary, and in either (a) the classified civil service; (b) the unclassified civil service; (c) any temporary or emergency establishment, agency, bureau, administration, project, and department created by Acts of Congress or Presidential Executive order", in view of the exclusion of positions in the legislative and judicial branches by former section 869. Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Preference eligibles—
- Adverse actions, see section 7511 et seq. of this title.
- Back pay, reinstatement, or restoration after removal, suspension, or furlough, see section 5596 of this title.
- Competitive service, see section 3309 et seq. of this title.
- Definition, see section 2108 of this title.
- Removal, see sections 7501, 7511, and 7701 of this title.
- Retention preference, see section 3504 of this title.
- Transfers, see section 3351 of this title.

Ex. Ord. No. 10561. Official Personnel Folders

Ex. Ord. No. 10561, Sept. 13, 1954, 19 F.R. 5963, provided:

1. As used herein, the term "agency" shall mean any executive department or independent establishment of the Federal Government, including a corporation wholly owned or controlled by the United States, and, with respect to positions subject to the Civil Service Rules and Regulations, it shall also mean the legislative and judicial branches of the Federal Government and the government of the District of Columbia.

2. Each agency shall establish and maintain a separate Official Personnel Folder for each of its employ-

ees who is employed under the Civil Service Rules and Regulations. Each such folder shall be under the jurisdiction and control, and shall be a part of the records, of the United States Civil Service Commission (hereinafter referred to as the Commission). Each such folder shall include the records required to be kept by the Civil Service Commission under subparagraph eighth of paragraph second of section 2 of the Civil Service Act [section 2951 of this title], namely: the notice given in writing by the appointing agency to the Commission of the persons selected for appointment or employment from among those who have been examined, of the place of residence of such persons, of the rejection of any such persons after probation, of transfers, resignations, and removals, and of the dates thereof. Each such folder shall also include such additional records as are or may be prescribed by the Commission.

3. Records similar to those specified in paragraph 2 hereof with respect to employees outside the competitive service shall be kept in Official Personnel Folders by all departments and independent establishments of the executive branch of the Government, including corporations wholly owned or controlled by the United States.

4. The Commission is hereby authorized to prescribe regulations, not inconsistent with this order, governing the establishment, content, maintenance, and transfer among agencies, of the Official Personnel Folders relating to any employees to which this order is applicable.

5. To the extent necessary to carry out the provisions of this order, the Commission may delegate to the heads of agencies any authority of the President conferred upon it by this order.

6. Executive Order No. 9784 of September 25, 1946, entitled "Providing for the More Efficient Use and for the Transfer and Other Disposition of Government Records" is hereby revoked; and all provisions of other prior Executive orders which are inconsistent with this order are hereby modified to the extent of such inconsistency.

7. This order shall become effective sixty days after the date hereof, or at such earlier time as the Commission may designate.

DWIGHT D. EISENHOWER.

EXECUTIVE ORDER NO. 11397

Ex. Ord. No. 11397, Feb. 9, 1968, 33 F.R. 2833, formerly set out as a note under this section, which related to transitional appointments of veterans who served during the Vietnam Era, was revoked by Ex. Ord. No. 11521, Mar. 26, 1970, 35 F.R. 5311, set out as a note under section 3302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1104, 1303 of this title and in title 18 section 1917.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 1303. Investigations; reports

The Civil Service Commission may investigate and report on matters concerning—

(1) the enforcement and effect of the rules prescribed by the President under this title for the administration of the competitive service and the regulations prescribed by the Commission under section 1302(a) of this title; and

(2) the action of an examiner, a board of examiners, and other employees concerning the execution of the provisions of this title that relate to the administration of the competitive service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 401.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 633(4)	Jan. 16, 1883, ch. 27, § 2(4), 22 Stat. 404.

The authority of the President to prescribe rules is carried into sections 2951, 3302, 3304(a), 3306(a), 3321, 7152, 7153, 7321, and 7322 of this title.

In paragraph (2), the words "in respect to the execution of this act" are changed to "concerning the execution of the provisions of this title that relate to the administration of the competitive service" to avoid having to refer in the text to the sections of this title into which the Civil Service Act, the act referred to, is codified. These sections are: 1101, 1102, 1105, 1302(a), 1303, 1307, 1308(a)(1), 2102, 2951, 3302, 3303, 3304(a), (d), 3305(a), 3306, 3318(a), 3319(a), 3321, 7152, 7153, 7321, 7322, and 7352. The words "the provisions of this title that relate to the administration of the competitive service" will include some of the sections derived from the Veterans' Preference Act of 1944 (former sections 851-869). They are based in part on former section 860 (codified in § 1302(c)). The authorization in that section to make and enforce regulations for the competitive service would include the authority to investigate and report. The words "and other employees" are substituted for "and its own subordinates, and those in the public service" in view of the definition of "employee" in section 2105.

Standard changes are made to conform with the definition applicable and the style of this title as outlined in the preface to the report.

§ 1304. Loyalty investigations; reports; revolving fund

(a) The Civil Service Commission shall conduct the investigations and issue the reports required by the following statutes—

(1) sections 272b, 281b(e), 290a, and 1434 of title 22;

(2) section 1874(c) of title 42; and

(3) section 1203(e) of title 6, District of Columbia Code.

(b) When an investigation under subsection (a) of this section develops data indicating that the loyalty of the individual being investigated is questionable, the Commission shall refer the matter to the Federal Bureau of Investigation for a full field investigation, a report of which shall be furnished to the Commission for its information and appropriate action.

(c) When the President considers it in the national interest, he may have the investigations of a group or class, which are required by subsection (a) of this section, made by the Federal Bureau of Investigation rather than the Commission.

(d) The investigation and report required by subsection (a) of this section shall be made by the Federal Bureau of Investigation rather than the Commission for those specific positions which the Secretary of State certifies are of a high degree of importance or sensitivity.

(e)(1) A revolving fund is available, to the Commission without fiscal year limitation, for financing investigations, training, and such other functions as the Commission is authorized or required to perform on a reimbursable basis. However, the functions which may be financed in any fiscal year by the fund are restricted to those functions which are covered by the budget estimates submitted to the Congress for that fiscal year. To the maximum extent feasible, each individual activity shall be conducted generally on an actual cost basis over a reasonable period of time.

(2) The capital of the fund consists of the aggregate of—

(A) appropriations made to provide capital for the fund, which appropriations are hereby authorized, and

(B) the sum of the fair and reasonable value of such supplies, equipment, and other assets as the Commission from time to time transfers to the fund (including the amount of the unexpended balances of appropriations or funds relating to activities the financing of which is transferred to the fund) less the amount of related liabilities, the amount of unpaid obligations, and the value of accrued annual leave of employees, which are attributable to the activities the financing of which is transferred to the fund.

(3) The fund shall be credited with—

(A) advances and reimbursements from available funds of the Commission or other agencies, or from other sources, for those services and supplies provided at rates estimated by the Commission as adequate to recover expenses of operation (including provision for accrued annual leave of employees and depreciation of equipment); and

(B) receipts from sales or exchanges of property, and payments for loss of or damage to property, accounted for under the fund.

(4) Any unobligated and unexpended balances in the fund which the Commission determines to be in excess of amounts needed for activities financed by the fund shall be deposited in the Treasury of the United States as miscellaneous receipts.

(5) The Commission shall prepare a business-type budget providing full disclosure of the results of operations for each of the functions performed by the Commission and financed by the fund, and such budget shall be transmitted to the Congress and considered, in the manner prescribed by law for wholly owned Government corporations.

(6) The Comptroller General of the United States shall, as a result of his periodic reviews of the activities financed by the fund, report and make such recommendations as he deems appropriate to the Committees on Post Office and Civil Service of the Senate and House of Representatives at least once every three years.

(f) An agency may use available appropriations to reimburse the Commission or the Federal Bureau of Investigation for the cost of investigations, training, and functions performed for them under this section, or to make advances toward their cost. These advances and reimbursements shall be credited directly to the applicable appropriations of the Commission or the Federal Bureau of Investigation.

(g) This section does not affect the responsibility of the Federal Bureau of Investigation to investigate espionage, sabotage, or subversive acts.

(Pub. L. 89- 554, Sept. 6, 1966, 80 Stat. 401; Pub. L. 91-189, § 1, Dec. 30, 1969, 83 Stat. 851; Pub. L. 91-648, title V, § 510, Jan. 5, 1971, 84 Stat. 1928.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(b)-(d)	5 U.S.C. 655	Apr. 5, 1952, ch. 159, § 1 (provisos), 66 Stat. 44. July 31, 1953, ch. 283, § 9, 67 Stat. 241.
(e)	5 U.S.C. 657	June 5, 1952, ch. 369, § 701 (par. under "Civil Service Commission"), 66 Stat. 107.
(f)	[Uncodified]	Apr. 5, 1952, ch. 159, § 4, 66 Stat. 44.
(g)	5 U.S.C. 656	Apr. 5, 1952, ch. 159, § 3, 66 Stat. 44.

Subsection (a) is based on section 1 of the Act of April 5, 1952, as amended, and is added for clarity. In subsection (a), the reference to section 10(b)(5)(B)(i) and (B)(ii) of the Act of August 1, 1946 (60 Stat. 766) is omitted because of the amendment of the Act of April 5, 1952, by the Act of July 31, 1953, ch. 283, 67 Stat. 240, and the reenactment of the provisions of the Act of April 5, 1952, insofar as they relate to the Atomic Energy Commission as section 145 of the Atomic Energy Act of 1954 (68 Stat. 942; 42 U.S.C. 2165). The references to section 1(2) of the Act of May 22, 1947 (61 Stat. 125), section 1 of the joint resolution of May 21, 1947 (61 Stat. 125), and section 110(c) of the Act of April 3, 1948 (62 Stat. 137) are omitted as these Acts were repealed by the Act of Aug. 26, 1954, ch. 937 § 542(a) (1), (2), and (4), 68 Stat. 861. Reference to section 510 of the Mutual Security Act of 1951 (65 Stat. 381) is omitted because this section was replaced by section 531 of the Mutual Security Act of 1954 (68 Stat. 859) and the latter was repealed by the Act of Sept. 4, 1961, Pub. L. 87-195, § 642(2), 75 Stat. 460.

In subsection (d), the references to section 10(b)(5)(B)(i) and (ii) of the Atomic Energy Act of 1946, section 510 of the Mutual Security Act of 1951, a majority of the members of the Atomic Energy Commission, and the Director of Mutual Security (which was changed to Director of the International Cooperation Administration on authority of section 8 of 1953 Reorg. Plan No. 7, 67 Stat. 641, and Executive Order 10610 of May 9, 1955) are omitted because of the disposition of the two sections as explained with reference to subsection (a).

In subsection (e), the words "There is established" are omitted as executed.

In subsection (g), the reference to statutes other than this section is omitted because nothing in those statutes affect the responsibility in question.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1971—Subsec. (e). Pub. L. 91-648 struck out in par. (1) "of $4,000,000" following "revolving fund" and inserted in par. (2) (A) ", which appropriations are hereby authorized".

1969—Subsec. (e). Pub. L. 91-189, § 1(a), increased the scope of reimbursable services for which the fund may be used, restricted reimbursement to services which were included in the budget estimates submitted to Congress for that fiscal year, inserted a list of components which comprise the fund, specifically listed those items that would be credited directly to the capital fund, required that a budget be prepared by the Commission, and directed the Comptroller General as a result of the activities financed to make recommendations to the committees on Post Office and Civil Service of the Senate and House of Representatives at least once every three years.

Subsec. (f). Pub. L. 91-189, § 1(b), authorized an agency to use available appropriations to reimburse the Commission or the Federal Bureau of Investigation for the cost of training and functions performed.

§ 1305. Hearing examiners

For the purpose of sections 3105, 3344, 4301(2)(E), 5362, and 7521 of this title and the provisions of section 5335(a)(B) of this title that relate to hearing examiners, the Civil Service Commission may investigate, require reports by agencies, issue reports, including an annual report to Congress, prescribe regulations, appoint advisory committees as necessary, recommend legislation, subpena witnesses and records, and pay witness fees as established for the courts of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 402; Pub. L. 90-83, § 1(3), Sept. 11, 1967, 81 Stat. 196.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1010 (5th sentence).	June 11, 1946, ch. 324, § 11 (5th sentence), 60 Stat. 244.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

This section amends 5 U.S.C. 1305 to correct a typographical error.

Effective Date of 1967 Amendment

Amendment by Pub. L. 90-83 effective as of Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

Termination of Advisory Committees

Advisory Committees in existence on Jan. 5, 1973, excluding committees composed wholly of full-time officers or employees of the Federal Government, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided for by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, 776, set out in the Appendix to this title.

Cross References

Additional requirements imposed by statute or otherwise recognized by law not limited or repealed by this section, see section 559 of this title.

Subsequent statutes to supersede or modify this section only to the extent that they do so expressly, see section 559 of this title.

Section Referred to in Other Sections

This section is referred to in section 559 of this title.

§ 1306. Oaths to witnesses

Each Civil Service Commissioner, including the Chairman, and authorized representatives of the Commission or Chairman, may administer oaths to witnesses in matters pending before the Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 402.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 634	Aug. 23, 1912, ch. 350, § 1 (last par. under "Civil Service Commission"), 37 Stat. 372.
....	[Uncodified]	1949 Reorg. Plan No. 5, § 2(c), eff. Aug. 19, 1949, 63 Stat. 1069.

The section is rewritten to reflect expansion of authority of the Commission to include its Chairman under section 2(c) of 1949 Reorg. Plan No. 5.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 1307. Minutes

The Civil Service Commission shall keep minutes of its proceedings.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 402.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 633 (3) (last 10 words).	Jan. 16, 1883, ch. 27, § 2(3) (last 10 words), 22 Stat. 404.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 1308. Annual reports

(a) The Civil Service Commission shall make an annual report to the President for transmittal to Congress. The report shall include—

(1) a statement of the Commission's actions in the administration of the competitive service, the rules and regulations and exceptions thereto in force, the reasons for exceptions to the rules, the practical effects of the rules and regulations, and any recommendations for the more effectual accomplishment of the purposes of the provisions of this title that relate to the administration of the competitive service;

(2) the results of the incentive awards program authorized by chapter 45 of this title with related recommendations;

(3) at the end of each fiscal year, the names, addresses, and nature of employment of the individuals on whom the Commission has imposed a penalty for prohibited political activity under section 7325 of this title, with a statement of the facts on which action was taken, and the penalty imposed; and

(4) a statement, in the form determined by the Commission with the approval of the President, on the training of employees under chapter 41 of this title, including—

(A) a summary of information concerning the operation and results of the training programs and plans of the agencies;

(B) a summary of information received by the Commission from the agencies under section 4113(b) of this title; and

(C) the recommendations and other matters considered appropriate by the President or the Commission or required by Congress.

(b) The Commission shall annually provide an analysis to Congress of the administration and operation of chapter 41 of this title.

(c) The Commission shall publish an annual report on the operation of subchapter III of chapter 83 of this title, including a statement concerning the status of the Civil Service Retirement and Disability Fund.

(d) The Commission shall report annually to Congress on the operation of chapter 87 of this title.

(e) The Commission shall report annually to Congress on the operation of chapter 89 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 402; Pub. L. 91-93, title I, § 104, Oct. 20, 1969, 83 Stat. 138; Pub. L. 93-156, Nov. 21, 1973, 87 Stat. 623.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a) (1)	5 U.S.C. 633 (5)	Jan. 16, 1883, ch. 27, § 2(5), 22 Stat. 404.
(a) (2)	5 U.S.C. 2121 (less 1st 29 words).	Sept. 1, 1954, ch. 1208, § 302 (less 1st 29 words), 68 Stat. 1112.
(a) (3)	5 U.S.C. 118i (c).	Aug. 25, 1950, ch. 784, § 1 "Sec. 9(c)", 64 Stat. 475.
(a) (4)	5 U.S.C. 2317 (b).	July 7, 1958, Pub. L. 85-507, § 18(b), 72 Stat. 336.
(b)	5 U.S.C. 2317 (c).	July 7, 1958, Pub. L. 85-507, § 18(c), 72 Stat. 336.
(c)	5 U.S.C. 2266 (f).	July 31, 1956, ch. 804, § 401 "Sec. 16(f)", 70 Stat. 759.
(d)	5 U.S.C. 2102 (less applicability to 5 U.S.C. 2099).	Aug. 17, 1954, ch. 752, § 13 (less applicability to § 10) 68 Stat. 743.
(e)	5 U.S.C. 3011	Sept. 28, 1959, Pub. L. 86-382. § 12, 73 Stat. 716.

In subsection (a)(1), the requirement of reasons for exceptions to the civil service rules and regulations is added on authority of former section 633(2)8 (last sentence), which is carried into section 3302.

In subsection (b), the words "for his approval" are omitted as unnecessary because the President has the inherent power, based on the Constitutional separation of powers, to approve or disapprove such a report.

Standard charges are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1973—Subsec. (b). Pub. L. 93-156 substituted requirement that Commission provide annually an analysis to Congress of the administration and operation of chapter 41 of this title, for prior requirement that Commission report annually to the President for transmittal to Congress on the administration of chapter 41 of this title, including the information received by the Commission from the agencies under section 4113(b) (2) and (3) of this title.

1969—Subsec. (c). Pub. L. 91-93 struck out "on a normal cost plus interest basis" following "Fund".

Section Referred to in Other Sections

This section is referred to in section 1104 of this title.

Section Referred to in D.C. Code

This section is referred to in section 31-1403 of the District of Columbia Code.

CHAPTER 15—POLITICAL ACTIVITY OF CERTAIN STATE AND LOCAL EMPLOYEES

Sec.
1501. Definitions.
1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions.
1503. Nonpartisan candidacies permitted.
1504. Investigations; notice of hearing.
1505. Hearings; adjudications; notice of determinations.
1506. Orders; withholding loans or grants; limitations.
1507. Subpenas and depositions.
1508. Judicial review.

Amendments

1974—Pub. L. 93-443, title IV, § 401(b)(2), Oct. 15, 1974, 88 Stat. 1290, substituted "candidacies" for "political activity" in item 1503.

Chapter Referred to in Other Sections

This chapter is referred to in sections 1104, 1302 of this title; title 23 sections 103, 142; title 29 sections 848, 990; title 42 sections 2930e, 2943, 2996e; title 49 section 1604.

Chapter Referred to in D.C. Code

This chapter is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 1501. Definitions

For the purpose of this chapter—

(1) "State" means a State or territory or possession of the United States;

(2) "State or local agency" means the executive branch of a State, municipality, or other political subdivision of a State, or an agency or department thereof;

(3) "Federal agency" means an Executive agency or other agency of the United States, but does not include a member bank of the Federal Reserve System; and

(4) "State or local officer or employee" means an individual employed by a State or local agency whose principal employment is in connection with an activity which is financed in whole or in part by loans or grants made by the United States or a Federal agency, but does not include—

(A) an individual who exercises no functions in connection with that activity; or

(B) an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by a State or political subdivision thereof, or by a recognized religious, philanthropic, or cultural organization.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 403; Pub. L. 93-443, title IV, § 401(c), Oct. 15, 1974, 88 Stat. 1290.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)	5 U.S.C. 118k-2	July 19, 1940, ch. 640, § 4 "Sec. 19", 54 Stat. 772.
(2), (3)	5 U.S.C. 118k(f)	July 19, 1940, ch. 640, § 4 "Sec. 12(f)", 54 Stat. 770.
(4)	5 U.S.C. 118k(a) (1st 41 words), (e).	July 19, 1940, ch. 640, § 4 "Sec 12(a) (1st 41 words), (e)", 54 Stat. 767, 770.
	5 U.S.C. 118k-1 (as applicable to 5 U.S.C. 118 k).	Oct. 24, 1942, ch. 620 "Sec. 21 (as applicable to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 56 Stat. 986.
(5)	5 U.S.C. 118*l* (as applicable to 5 U.S.C. 118k).	July 19, 1940, ch. 640, § 4 "Sec. 15 (as applicable to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 54 Stat. 771.

In paragraph (4)(B), the words "or by any Territory or Territorial possession of the United States" are omitted in view of the definition of "State" in paragraph (1).

In paragraph (5), the words "July 19, 1940" are substituted for "at the time this section takes effect".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1974—Par. (5). Pub. L. 93-443 deleted par. (5) which defined "an active part in political management or in political campaigns".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

CROSS REFERENCES

Political activities of employees of Executive agencies and of the government of the District of Columbia, see section 7321 et seq. of this title.

§ 1502. Influencing elections; taking part in political campaigns; prohibitions; exceptions

(a) A State or local officer or employee may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election or a nomination for office;

(2) directly or indirectly coerce, attempt to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes; or

(3) be a candidate for elective office.

(b) A State or local officer or employee retains the right to vote as he chooses and to express his opinions on political subjects and candidates.

(c) Subsection (a)(3) of this section does not apply to—

(1) the Governor or Lieutenant Governor of a State or an individual authorized by law to act as Governor;

(2) the mayor of a city;

(3) a duly elected head of an executive department of a State or municipality who is not classified under a State or municipal merit or civil-service system; or

(4) an individual holding elective office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 404; Pub. L. 93-443, title IV, § 401(a), Oct. 15, 1974, 88 Stat. 1290.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118k (a) (less 1st 41 words).	July 19, 1940, ch. 640, § 4 "Sec. 12(a) (less 1st 41 words)", 54 Stat. 767.

In subsection (a), the term "State or local officer or employee", defined in section 1501, is substituted for the first 41 words of former section 118k(a). The words "any part of his salary or compensation" are omitted as included in "anything of value".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1974—Subsec. (a)(3). Pub. L. 93-443 substituted "be a candidate for elective office" for "take an active part in political management or in political campaigns".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1503, 1504, 1505, 1506 of this title; title 42 sections 2930e, 2996f.

§ 1503. Nonpartisan candidacies permitted

Section 1502(a)(3) of this title does not prohibit any State or local officer or employee from being a candidate in any election if none of the candidates is to be nominated or elected at such election as representing a party any of whose candidates for Presidential elector received votes in the last preceding election at which Presidential electors were selected.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 404; Pub. L. 93-443, title IV, § 401(b)(1), Oct. 15, 1974, 88 Stat. 1290.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118n (as applicable to 5 U.S.C. 118k(a)).	July 19, 1940, ch. 640, § 4 "Sec. 18 (as applicable to § 12 of the Act of Aug. 2, 1939: added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 54 Stat. 772.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1974—Pub. L. 93-443 substituted "candidacies" for "political activity" in the catchline and provision permitting nonpartisan candidacies for prior provision permitting political activity in connection with (1) an election and the preceding campaign if none of the candidates was to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected, or (2) a question which was not specifically identified with a National or State political party and deeming questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character as not specifically identified with a National or State political party.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

§ 1504. Investigations; notice of hearing

When a Federal agency charged with the duty of making a loan or grant of funds of the United States for use in an activity by a State or local officer or employee has reason to believe that the officer or employee has violated section 1502 of this title, it shall report the matter to the Civil Service Commission. On receipt of the report, or on receipt of other information which seems to the Commission to warrant an investigation, the Commission shall—

(1) fix a time and place for a hearing; and

(2) send, by registered or certified mail, to the officer or employee charged with the violation and to the State or local agency employing him a notice setting forth a summary of the alleged violation and giving the time and place of the hearing.

The hearing may not be held earlier than 10 days after the mailing of the notice.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 405.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118k (b) (1st and 2d sentences, and 4th through 17th words of 3d sentence).	July 19, 1940, ch. 640 § 4 "Sec. 12(b) (1st and 2d sentences, and 4th through 17th words of 3d sentence)", 54 Stat. 768. June 11, 1960, Pub. L. 86-507, § 1(1), 74 Stat. 200.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1505, 1508 of this title.

§ 1505. Hearings; adjudications; notice of determinations

Either the State or local officer or employee or the State or local agency employing him, or both, are entitled to appear with counsel at the hearing under section 1504 of this title, and be heard. After this hearing, the Civil Service Commission shall—

(1) determine whether a violation of section 1502 of this title has occurred;

(2) determine whether the violation warrants the removal of the officer or employee from his office or employment; and

(3) notify the officer or employee and the agency of the determination by registered or certified mail.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 405.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118k (b) (3d sentence, less 4th, through 17th words, and 4th sentence).	July 19, 1940, ch. 640, § 4 "Sec. 12(b) (3d sentence, less 4th through 17th words, and 4th sentence)", 54 Stat. 768. June 11, 1960, Pub. L. 86-507, § 1(1), 74 Stat. 200.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1508 of this title.

§ 1506. Orders; withholding loans or grants; limitations

(a) When the Civil Service Commission finds—

(1) that a State or local officer or employee has not been removed from his office or employment within 30 days after notice of a determination by the Commission that he has violated section 1502 of this title and that the violation warrants removal; or

(2) that the State or local officer or employee has been removed and has been appointed within 18 months after his removal to an office or employment in the same State in a State or local agency which does not receive loans or grants from a Federal agency;

the Commission shall make and certify to the appropriate Federal agency an order requiring that agency to withhold from its loans or grants to the State or local agency to which notice was given an amount equal to 2 years' pay at the rate the officer or employee was receiving at the time of the violation. When the State or local agency to which appointment within 18 months after removal has been made is one that receives loans or grants from a Federal agency, the Commission order shall direct that the withholding be made from that State or local agency.

(b) Notice of the order shall be sent by registered or certified mail to the State or local agency from which the amount is ordered to be withheld. After the order becomes final, the Federal agency to which the order is certified shall withhold the amount in accordance with the terms of the order. Except as provided by section 1508 of this title, a determination of order of the Commission becomes final at the end of 30 days after mailing the notice of the determination or order.

(c) The Commission may not require an amount to be withheld from a loan or grant pledged by a State or local agency as security for its bonds or notes if the withholding of that amount would jeopardize the payment of the principal or interest on the bonds or notes.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 405.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118k (b) (less 1st 4 sentences).	July 19, 1940, ch. 640, § 4 "Sec. 12(b) (less 1st 4 sentences)", 54 Stat. 768. June 11, 1960, Pub. L. 86-507, § 1(1), 74 Stat. 200.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1508 of this title.

§ 1507. Subpenas and depositions

(a) The Civil Service Commission may require by subpena the attendance and testimony of witnesses and the production of documentary evidence relating to any matter before it as a result of this chapter. Any member of the Commission may sign subpenas, and members of the Commission and its examiners when authorized by the Commission may administer oaths, examine witnesses, and receive evidence. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States at the designated place of hearing. In case of disobedience to a subpena, the Commission may invoke the aid of a court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. In case of contumacy or refusal to obey a subpena issued to a person, the United States District Court within whose jurisdiction the inquiry is carried on may issue an order requiring him to appear before the Commission, or to produce documentary evidence if so ordered, or to give evidence concerning the matter in question; and any failure to obey the order of the court may be punished by the court as a contempt thereof.

(b) The Commission may order testimony to be taken by deposition at any stage of a proceeding or investigation before it as a result of this chapter. Depositions may be taken before an individual designated by the Commission and having the power to administer oaths. Testimony shall be reduced to writing by the individual taking the deposition, or under his direction, and shall be subscribed by the deponent. Any person may be compelled to appear and depose and to produce documentary evidence before the Commission as provided by this section.

(c) A person may not be excused from attending and testifying or from producing documentary evidence or in obedience to a subpena on the ground that the testimony or evidence, documentary or otherwise required of him may tend to incriminate him or subject him to a penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled to testify, or produce evidence, documentary or otherwise, before the Commission in obedience to a subpena issued by it. A person so testifying is not exempt from prosecution and punishment for perjury committed in so testifying.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 406.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118k (d) (less 1st sentence).	July 19, 1940, ch. 640, § 4 "Sec. 12(d) (less 1st sentence)", 54 Stat. 769.

In subsection (a), the word "affirmation" is omitted as included in "oath" on authority of section 1 of title 1, United States Code. The title of the court is changed to conform to title 28.

In subsection (c), the prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 1508. Judicial review

A party aggrieved by a determination or order of the Civil Service Commission under section 1504, 1505, or 1506 of this title may, within 30 days after the mailing of notice of the determination or order, institute proceedings for review thereof by filing a petition in the United States District Court for the district in which the State or local officer or employee resides. The institution of the proceedings does not operate as a stay of the determination or order unless—

(1) the court specifically orders a stay; and

(2) the officer or employee is suspended from his office or employment while the proceedings are pending.

A copy of the petition shall immediately be served on the Commission, and thereupon the Commission shall certify and file in the court a transcript of the record on which the determination or order was made. The court shall review the entire record including questions of fact and questions of law. If application is made to the court for leave to adduce additional evidence, and it is shown to the satisfaction of the court that the additional evidence may materially affect the result of the proceedings and that there were reasonable grounds for failure to adduce this evidence in the hearing before the Commission, the court may direct that the additional evidence be taken before the Commission in the manner and on the terms and conditions fixed by the court. The Commission may modify its findings of fact or its determination or order in view of the additional evidence and shall file with the court the modified findings, determination, or order; or the modified findings of fact, if supported by substantial evidence, are conclusive. The court shall affirm the determination or order, or the modified determination or order, if the court determines that it is in accordance with law. If the court determines that the determination or order, or the modified determination or order, is not in accordance with law, the court shall remand the proceeding to the Commission with directions either to make a determination or order determined by the court to be lawful or to take such further proceedings as, in the opinion of the court, the law requires. The judgment and decree of the court are final, subject to review by the appropriate United States Court of Appeals as in other cases, and the judgment and decree of the court of appeals are final, subject to review by the Supreme Court of the United States on certiorari or certification as provided by section 1254 of title 28. If a provision of this section is held to be invalid as applied to a party by a determination or order of the Commission, the determination or order becomes final and effective as to that party as if the provision had not been enacted.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 406.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118k (c).	July 19, 1940, ch. 640, § 4 "Sec. 12(c)", 54 Stat. 768.

Sections 346 and 347 of title 28 referred to in former section 118k(c) were repealed by the Act of June 25, 1948, ch. 646, § 39, 62 Stat. 862, and are now covered by section 1254 of title 28. The titles of the courts are changed to conform to title 28.

In the reference to filing a written petition, "written" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1506 of this title.

PART III—EMPLOYEES

Subpart A—General Provisions

Chap.		Sec.
21.	Definitions	2101
29.	Commissions, Oaths, Records, and Reports	2901

Subpart B—Employment and Retention

Chap.		Sec.
31.	Authority for Employment	3101
33.	Examination, Selection, and Placement	3301
35.	Retention Preference, Restoration, and Reemployment	3501

Subpart C—Employee Performance

Chap.		Sec.
41.	Training	4101
43.	Performance Rating	4301
45.	Incentive Awards	4501

Subpart D—Pay and Allowances

Chap.		Sec.
51.	Classification	5101
53.	Pay Rates and Systems	5301
55.	Pay Administration	5501
57.	Travel, Transportation, and Subsistence	5701
59.	Allowances	5901

Subpart E—Attendance and Leave

Chap.		Sec.
61.	Hours of Work	6101
63.	Leave	6301

Subpart F—Employee Relations

Chap.		Sec.
71.	Policies	7101
73.	Suitability, Security, and Conduct	7301
75.	Adverse Actions	7501
77.	Appeals	7701
79.	Services to Employees	7901

Subpart G—Insurance and Annuities

Chap.		Sec.
81.	Compensation for Work Injuries	8101
83.	Retirement	8301
85.	Unemployment Compensation	8501
87.	Life Insurance	8701
89.	Health Insurance	8901

PART III REFERRED TO IN OTHER SECTIONS

This part is referred to in title 42 section 3056b.

Subpart A—General Provisions

CHAPTER 21—DEFINITIONS

Sec.
2101. Civil service; armed forces; uniformed services.
2102. The competitive service.
2103. The excepted service.
2104. Officer.
2105. Employee.
2106. Member of Congress.
2107. Congressional employee.
2108. Veteran; disabled veteran; preference eligible.
2109. Air traffic controller.

AMENDMENTS

1972—Pub. L. 92-297, § 1(b), May 16, 1972, 86 Stat. 141, added item 2109.

§ 2101. Civil service; armed forces; uniformed services

For the purpose of this title—

(1) the "civil service" consists of all appointive positions in the executive, judicial, and legislative branches of the Government of the United States, except positions in the uniformed services;

(2) "armed forces" means the Army, Navy, Air Force, Marine Corps, and Coast Guard; and

(3) "uniformed services" means the armed forces, the commissioned corps of the Public Health Service, and the commissioned corps of the Environmental Science Services Administration.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 408; Pub. L. 90-83, § 1(4), Sept. 11, 1967, 81 Stat. 196.)

HISTORICAL AND REVISION NOTES

1966 ACT

The section is supplied to establish basis of reference to employees in this title.

1967 ACT

This section amends various sections of title 5, United States Code, to reflect 1965 Reorganization Plan No. 2 (79 Stat. 1318), effective July 13, 1965, which consolidated the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

CROSS REFERENCES

United States Maritime Service administrative enrollees, acquisition of civil service status, see section 1126 of Title 46, Shipping.

§ 2102. The competitive service

(a) The "competitive service" consists of—

(1) all civil service positions in the executive branch, except—

(A) positions which are specifically excepted from the competitive service by or under statute; and

(B) positions to which appointments are made by nomination for confirmation by the Senate, unless the Senate otherwise directs;

(2) civil service positions not in the executive branch which are specifically included in the competitive service by statute; and

(3) positions in the government of the District of Columbia which are specifically included in the competitive service by statute.

(b) Notwithstanding subsection (a)(1)(B) of this section, the "competitive service" includes positions to which appointments are made by nomination for confirmation by the Senate when specifically included therein by statute.

(c) As used in other Acts of Congress, "classified civil service" or "classified service" means the "competitive service".

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 408.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 638 (less applicability to appointment and promotion).	Jan. 16, 1883, ch. 27 § 7 (less applicability to appointment and promotion), 22 Stat. 406.

Subsection (a) is restated in the form of a definition.

Subsection (a)(1) is based on former section 638, which placed positions in the executive branch of the Government generally in the competitive service by the requirement that employment be predicated on passing an examination or being exempted from examination, and section 1 of the Act of Nov. 26, 1940, ch. 919, title I, 54 Stat. 1211 (see table III), which authorized the President, subject to certain exceptions, to place in the classified civil service positions in the Executive departments, independent establishments, and other agencies of the Government. In that Act the word "executive" has been construed to modify "departments", "independent establishments"; and "other agency". This construction is supported by the language of the Act of Jan. 16, 1883, and is embodied in Civil Service Rule I. Acting under this statute, the President has placed all but a comparatively few of the positions covered by the Act of Nov. 26, 1940, in the competitive service. The remainder are covered by the exceptions contained in the Civil Service Rules and Regulations. The authority of the President conferred by the Act of Nov. 26, 1940, has been superseded in part by exceptions created by statutes enacted after that date. The effect of these exceptions and the power conferred on the President by former section 633(2)8 (last sentence) to make exceptions to the Civil Service Rules are preserved by the words "positions which are specifically excepted from the competitive service by or under statute".

In subsection (a)(1)(B), the words "or to pass an examination" are omitted as covered by the exclusion from the "competitive service".

Subsection (a)(2) preserves the exception stated in former section 638 modified to recognize the several statutory exceptions to this exception that have been enacted. The language of former section 638 relative to examination is codified in sections 3304(b) and 3361. The reference to veterans' preference is omitted because the statute referred to, R.S. § 1754, was superseded by sections 3 and 21 of the Act of June 18, 1929, ch. 28, 46 Stat. 21. Section 3 of the Act of June 18, 1929, was superseded by the Act of June 27, 1944, ch. 287, 58 Stat. 387, as amended, which is carried into this title. Rights preserved by section 18 of the Act of June 27, 1944, are further preserved by technical section 8. The exception for laborers and workmen was superseded by the Act of Nov. 26, 1940.

Subsection (b) is added because of the provisions in section 3311 of title 39.

Subsection (c) is supplied for conformity inasmuch as the terms are coextensive by definition.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Employment of reading assistants for blind employees without regard to provisions governing appointments to the competitive service, see section 3102 of this title.

Section Referred to in Other Sections

This section is referred to in title 42 section 2000*e*.

§ 2103. The excepted service

(a) For the purpose of this title, the "excepted service" consists of those civil service positions which are not in the competitive service.

(b) As used in other Acts of Congress, "unclassified civil service" or "unclassified service" means the "excepted service".

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 408.)

Historical and Revision Notes

The section is supplied for convenience. The "excepted service" has come to mean all employees not in the competitive service, for whatever reason.

§ 2104. Officer

(a) For the purpose of this title, "officer", except as otherwise provided by this section or when specifically modified, means a justice or judge of the United States and an individual who is—

(1) required by law to be appointed in the civil service by one of the following acting in an official capacity—

(A) the President;

(B) a court of the United States;

(C) the head of an Executive agency; or

(D) the Secretary of a military department;

(2) engaged in the performance of a Federal function under authority of law or an Executive act; and

(3) subject to the supervision of an authority named by paragraph (1) of this section, or the Judicial Conference of the United States, while engaged in the performance of the duties of his office.

(b) Except as otherwise provided by law, an officer of the United States Postal Service or of the Postal Rate Commission is deemed not an officer for purposes of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 408; Pub. L. 91-375, § 6(c)(3), Aug. 12, 1970, 84 Stat. 775.)

Historical and Revision Notes

The section is supplied for convenience.

Amendments

1970—Subsec. (a). Pub. L. 91-375, § 6(c)(3)(A), (B), designated existing provisions as subsec. (a) and inserted in the introductory text "as otherwise provided by this section or" following "except".

Subsec. (b). Pub. L. 91-375, § 6(c)(3)(C), added subsec. (b).

Effective Date of 1970 Amendment

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

Section Referred to in Other Sections

This section is referred to in section 902 of this title.

§ 2105. Employee

(a) For the purpose of this title, "employee", except as otherwise provided by this section or when specifically modified, means an officer and an individual who is—

(1) appointed in the civil service by one of the following acting in an official capacity—

(A) the President;

(B) a Member or Members of Congress, or the Congress;

(C) a member of a uniformed service;

(D) an individual who is an employee under this section;

(E) the head of a Government controlled corporation; or

(F) the adjutants general designated by the Secretary concerned under section 709(c) of title 32, United States Code;

(2) engaged in the performance of a Federal function under authority of law or an Executive act; and

(3) subject to the supervision of an individual named by paragraph (1) of this subsection while engaged in the performance of the duties of his position.

(b) An individual employed at the United States Naval Academy in the midshipmen's laundry, the midshipmen's tailor shop, the midshipmen's cobbler and barber shops, and the midshipmen's store, except an individual employed by the Academy dairy, is deemed an employee.

(c) An employee paid from nonappropriated funds of the Army and Air Force Exchange Service, Army and Air Force Motion Picture Service, Navy Ship's Stores Ashore, Navy exchanges, Marine Corps exchanges, Coast Guard exchanges, and other instrumentalities of the United States under the jurisdiction of the armed forces conducted for the comfort, pleasure, contentment, and mental and physical improvement of personnel of the armed forces is deemed not an employee for the purpose of—

(1) laws (other than subchapter IV of chapter 53 and sections 5550 and 7154 of this title) administered by the Civil Service Commission; or

(2) subchapter I of chapter 81 and section 7902 of this title.

This subsection does not affect the status of these nonappropriated fund activities as Federal instrumentalities.

(d) A Reserve of the armed forces who is not on active duty or who is on active duty for training is deemed not an employee or an individual holding an office of trust or profit or discharging an official function under or in connection with the United States because of his appointment, oath, or status, or any duties or functions performed or pay or allowances received in that capacity.

(e) Except as otherwise provided by law, an employee of the United States Postal Service or of the Postal Rate Commission is deemed not an employee for purposes of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 409; Pub. L. 90-486, § 4, Aug. 13, 1968, 82 Stat. 757; Pub. L. 91-375, § 6(c)(4), Aug. 12, 1970, 84 Stat. 775; Pub. L. 92-392, § 2, Aug. 19, 1972, 86 Stat. 573.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(b)	[Uncodified]	Aug. 5, 1939, ch. 448, § 2, 53 Stat. 1210.
	[Uncodified]	Dec. 3, 1945, ch. 510, § 2, 59 Stat. 590.
	[Uncodified]	Dec. 28, 1945, ch. 593, § 2, 59 Stat. 660.
	[Uncodified]	Dec. 28, 1945, ch. 594, § 2, 59 Stat. 660.
	[Uncodified]	July 26, 1946, ch. 675, § 2 (last proviso), 60 Stat. 704.
(c)	5 U.S.C. 150k	June 19, 1952, ch. 444, § 1, 66 Stat. 138.
(d)	5 U.S.C. 30r(d)	Aug. 10, 1956, ch. 1041, § 29(d), 70A Stat. 632.

Subsection (a) is supplied to avoid the necessity of defining "employee" each time it appears in this title. The subsection is based on a definition worked out independently by the Civil Service Commission and the Department of Labor and in use by both for more than a decade.

In subsection (b), the provisions of the source statutes which relate to credit for prior service and diminution of pay are executed, or, insofar as to be executed preserved by technical section 8.

In subsection (d), the words "officer or" are omitted as included within "employee".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1972—Subsec. (c)(1). Pub. L. 92-392 substituted "laws (other than subchapter IV of chapter 53 and sections 5550 and 7154 of this title)" for "laws".

1970—Subsec. (e). Pub. L. 91-375 added subsec. (e).

1968—Subsec. (a)(1)(F). Pub. L. 90-486 added subsec. (a)(1)(F).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-486 effective Jan. 1, 1968, except that no deductions or withholding from salary which result therefrom shall commence before the first day of the first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90-486, set out as a note under section 709 of Title 32, National Guard.

PROHIBITION OF DECREASE IN BASIC PAY RATE OF EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

Amendments by Pub. L. 92-392 not to decrease basic pay rate of subsec. (c) employees in service before effective date of the amendments as to such employees, see section 9 (a) (2) of Pub. L. 92-392, set out as a note under section 5343 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3551, 4501, 5342, 5506, 5515, 5537, 5551, 5552, 5581, 5595, 5751, 5945, 5946, 6103, 6104, 6301, 6322, 6323, 7342, 8171, 8172, 8173, 8311, 8331, 8701, 8901 of this title; title 25 section 450i.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 39-201 of the District of Columbia Code.

§ 2106. Member of Congress

For the purpose of this title, "Member of Congress" means the Vice President, a member of the Senate or the House of Representatives, a Delegate from the District of Columbia, and the Resident Commissioner from Puerto Rico.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 409; Pub. L. 91-405, title II, § 204(b), Sept. 22, 1970, 84 Stat. 852.)

HISTORICAL AND REVISION NOTES

The section is supplied to avoid the necessity of defining "Member of Congress" each time the term is used in this title.

AMENDMENTS

1970—Pub. L. 91-405 included Delegate from District of Columbia.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-405 effective on Sept. 22, 1970, see section 206(b) of Pub. L. 91-405, summarized in a note set out under section 25 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7342, 8311, 8331, 8701, 8901 of this title.

§ 2107. Congressional employee

For the purpose of this title, "Congressional employee" means—

(1) an employee of either House of Congress, of a committee of either House, or of a joint committee of the two Houses;

(2) an elected officer of either House who is not a Member of Congress;

(3) the Legislative Counsel of either House and an employee of his office;

(4) a member of the Capitol Police;

(5) an employee of a Member of Congress if the pay of the employee is paid by the Secretary of the Senate or the Clerk of the House of Representatives;

[(6) Repealed. Pub. L. 90-83, § 1(5)(A), Sept. 11, 1967, 81 Stat. 196.]

(7) the Architect of the Capitol and an employee of the Architect of the Capitol;

(8) an employee of the Botanic Garden; and

(9) an employee of the Capitol Guide Service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 409; Pub. L. 90-83, § 1(5), Sept. 11, 1967, 81 Stat. 196; Pub. L. 91-510, title IV, § 442(a), Oct. 26, 1970, 84 Stat. 1191.)

HISTORICAL AND REVISION NOTES

1966 ACT

The section is supplied to avoid the necessity of defining "Congressional employee" each time the term is used in this title.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
2107(6)	2:126-7	July 27, 1965, Pub. L. 89-90, § 101 (proviso on p. 265), 79 Stat. 265.
2107(8)	5 App.: 2251(c)	Sept. 26, 1966, Pub. L. 89-604, § 1(a), 80 Stat. 846.

Paragraph (6), relating to Official Reporters of Debates of the Senate and their employees, is eliminated as unnecessary on authority of the act of July 27, 1965 (2 U.S.C. 126-1). Pursuant to that act, the Official Reporters and their employees became employees of the Senate; accordingly, they are now included within the definition of "Congressional employee" under paragraph (1).

In paragraph (8), based on the act of September 26, 1966 (5 App. U.S.C. 2251(c)), the word "officers" is omitted as included in "employees," and the words "United States" preceding the words "Botanic Garden" are omitted as unnecessary.

AMENDMENTS

1970—Par. (9). Pub. L. 91-510 added par. (9).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-510 effective immediately prior to noon on Jan. 3, 1971, see section 601(1) of Pub. L. 91-510, set out as a note under section 72a of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8331, 8701, 8901 of this title; title 2 section 31b-5; title 26 section 7448.

§ 2108. Veteran; disabled veteran; preference eligible

For the purpose of this title—

(1) "veteran" means an individual who—

(A) served on active duty in the armed forces during a war, in a campaign or expedition for which a campaign badge has been authorized, or during the period beginning April 28, 1952, and ending July 1, 1955; or

(B) served on active duty as defined by section 101(21) of title 38 at any time in the armed forces for a period of more than 180 consecutive days any part of which occurred after January 31, 1955, and before the date of enactment of the Veterans' Education and Employment Assistance Act of 1976, not including service under section 511(d) of title 10 pursuant to an enlistment in the Army National Guard or the Air National Guard or as a Reserve for service in the Army Reserve, Naval Reserve, Air Force Reserve, Marine Corps Reserve, or Coast Guard Reserve;

and who has been separated from the armed forces under honorable conditions;

(2) "disabled veteran" means an individual who has served on active duty in the armed forces, has been separated therefrom under honorable conditions, and has established the present existence of a service-connected disability or is receiving compensation, disability retirement benefits, or pension because of a public statute administered by the Veterans' Administration or a military department; and

(3) "preference eligible" means—

(A) a veteran as defined by paragraph (1)(A) of this section;

(B) a veteran as defined by paragraph (1)(B) of this section;

(C) a disabled veteran;

(D) the unmarried widow or widower of a veteran as defined by paragraph (1)(A) of this section;

(E) the wife or husband of a service-connected disabled veteran if the veteran has been unable to qualify for any appointment in the civil service or in the government of the District of Columbia;

(F) the mother of an individual who lost his life under honorable conditions while serving in the armed forces during a period named by paragraph (1)(A) of this section, if—

(i) her husband is totally and permanently disabled;

(ii) she is widowed, divorced, or separated from the father and has not remarried; or

(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed; and

(G) the mother of a service-connected permanently and totally disabled veteran, if—

(i) her husband is totally and permanently disabled;

(ii) she is widowed, divorced, or separated from the father and has not remarried; or

(iii) she has remarried but is widowed, divorced, or legally separated from her husband when preference is claimed.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 410; Pub. L. 90-83, § 1(6), Sept. 11, 1967, 81 Stat. 196; Pub. L. 90-623, § 1(2), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 92-187, § 1, Dec. 15, 1971, 85 Stat. 644; Pub. L. 94-502, title VII, § 702, Oct. 15, 1976, 90 Stat. 2405.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 851 (less 1st 76 words).	June 27, 1944, ch. 287, § 2 (less 1st 76 words), 58 Stat. 387. Jan. 19, 1948, ch. 1, § 1, 62 Stat. 3. July 2, 1948, ch. 816, 62 Stat. 1233. Aug. 26, 1949, ch. 513, 63 Stat. 666. Dec. 27, 1950, ch. 1151, § 1, 64 Stat. 1117. July 14, 1952, ch. 728, § 1, 66 Stat. 626.

In paragraph (2), the words "a military department" are substituted for "the War Department or Navy Department" (appearing in section 2 of the Act of June 27, 1944) because of the definition of "military department" in section 102. The Department of War was designated the Department of the Army by the Act of July 26, 1947, ch. 343, § 205, 61 Stat. 501. "Department of the Air Force" is included on authority of the Act of July 26, 1947, ch. 343, § 207 (a), (f), 61 Stat. 502.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
2108	5 App.: 851	Mar. 3, 1966, Pub. L. 89-358, § 11, 80 Stat. 28.

REFERENCES IN TEXT

The date of enactment of the Veterans' Education and Employment Assistance Act of 1976, referred to in par. (1)(B), means the date of enactment of Pub. L. 94-502, which was Oct. 15, 1976.

AMENDMENTS

1976—Par. (1)(B). Pub. L. 94-502 substituted "any part of which occurred after January 31, 1955, and before the date of enactment of the Veterans' Education and Employment Assistance Act of 1976," for "after January 31, 1955,".

1971—Par. (3)(D). Pub. L. 92-187 inserted "or widower" following "unmarried widow".

Par. (3)(E). Pub. L. 92-187 inserted "or husband" following "the wife".

1968—Par. (3)(D). Pub. L. 90-623 added "as defined by paragraph (1)(A) of this section" immediately after "veteran".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 effective Sept. 11, 1967, for all purposes, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3305, 3309, 3318 of this title; title 22 section 1234; title 32 section 709; title 39 section 1005.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 2109. Air traffic controller

For the purpose of this title, "air traffic controller" or "controller" means an employee of the Department of Transportation who is actively engaged in the separation and control of air traffic, or who is the immediate supervisor of an employee actively engaged in the separation and control of air traffic, in an air traffic control facility. The Secretary of Transportation may prescribe regulations to determine the application of this section.

(Added Pub. L. 92-297, § 1(a), May 16, 1972, 86 Stat. 141).

EFFECTIVE DATE

Section effective on the 90th day after May 16, 1972, see, section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

CHAPTER 29—COMMISSIONS, OATHS, RECORDS, AND REPORTS

SUBCHAPTER I—COMMISSIONS, OATHS, AND RECORDS

Sec.

2901. Commission of an officer.
2902. Commission; where recorded.
2903. Oath; authority to administer.
2904. Oath; administered without fees.
2905. Oath; renewal.
2906. Oath; custody.

SUBCHAPTER II—REPORTS

2951. Reports to the Civil Service Commission.
2952. Time of making annual reports.
2953. Reports to Congress on additional employee requirements.
2954. Information to committees of Congress on request.

SUBCHAPTER I—COMMISSIONS, OATHS, AND RECORDS

§ 2901. Commission of an officer

The President may make out and deliver, after adjournment of the Senate, the commission of an officer whose appointment has been confirmed by the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 411.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 10	R.S. § 1773.

The words "confirmed by" are substituted for "advised and consented to".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 2902. Commission; where recorded

(a) Except as provided by subsections (b) and (c) of this section, the Secretary of State shall make out and record, and affix the seal of the United States to, the commission of an officer appointed by the President. The seal of the United States may not be affixed to the commission before the commission has been signed by the President.

(b) The commission of an officer in the civil service or uniformed services under the control of the Secretary of Agriculture, the Secretary of Commerce, the Secretary of Defense, the Secretary of a military department, the Secretary of the Interior, or the Secretary of the Treasury shall be made out and recorded in the department in which he is to serve under the seal of that department. The departmental seal may not be affixed to the commission before the commission has been signed by the President.

(c) The commissions of judicial officers and United States attorneys and marshals, appointed by the President, by and with the advice and consent of the Senate, and other commissions which before August 8, 1888, were prepared at the Department of State on the requisition of the Attorney General, shall be made out and recorded in the Department of Justice under the seal of that department and countersigned by the Attorney General. The departmental seal may not be affixed to the commission before the commission has been signed by the President.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 411; Pub. L. 94-183, § 2(3), Dec. 31, 1975, 89 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	4 U.S.C. 42 (as applicable to civil commissions).	[None.]
(b)	5 U.S.C. 11	Mar. 3, 1875, ch. 131, § 14, 18 Stat. 420. Mar. 28, 1896, ch. 73, 29 Stat. 75. Mar. 3, 1905, ch. 1422, 33 Stat. 990.
(c)	5 U.S.C. 12	Aug. 8, 1888, ch. 786, 25 Stat. 387.

In subsection (a), the words "Except as provided by subsections (b) and (c) of this section," are added on authority of former sections 11 and 12, which are codified in subsections (b) and (c) of this section. The words "the commission of an officer" are substituted for "all civil commissions for officers of the United States" because of the definition of "officer" in section 2104. The words "by the President" are coextensive with and substituted for "by the President, by and with the advice and consent of the Senate, or by the President alone".

In subsection (b), the words "officer in the civil service or uniformed services" are substituted for "officer" because of the definition of "officer" in section 2104. The words "direction and" are omitted as included within "the control". The words "the Secretary of Defense" are added on authority of the Acts of July 26, 1947, ch. 343, § 305(a), 61 Stat. 508, and Aug. 10, 1949, ch. 412, § 12(g), 63 Stat. 591. The words "the Secretary of a military department" are substituted for "the Secretary of War, the Secretary of the Navy" (appearing in the Act of Mar. 28, 1896) because of the definition of "military department" in section 102. The title of the Secretary of War was changed to Secretary of the Army by the Act of July 26, 1947, ch. 343, § 205, 61 Stat. 501. "Secretary of the Air Force" is included on authority of the Act of July 26, 1947, ch. 343, § 207(a), (f), 61 Stat. 502. The words "Secretary of Commerce" are substituted for "Secretary of Commerce and Labor" on authority of the Act of Mar. 4, 1913, ch. 141, § 1, 37 Stat. 736. The words "under the departmental seal" are substituted for "and the departmental seal affixed thereto". The words "any laws to the contrary notwithstanding" are omitted as unnecessary. The last sentence of section 14 of the Act of Mar. 3, 1875, is omitted as executed.

In subsection (c), the words "and shall be" and "any laws to the contrary notwithstanding" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-183 deleted "the Postmaster General," which followed "under the control of".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 4 section 42.

§ 2903. Oath; authority to administer

(a) The oath of office required by section 3331 of this title may be administered by an individual authorized by the laws of the United States or local law to administer oaths in the State, District, or territory or possession of the United States where the oath is administered.

(b) An employee of an Executive agency designated in writing by the head of the Executive agency, or the Secretary of a military department with respect to an employee of his department, may administer—

(1) the oath of office required by section 3331 of this title, incident to entrance into the executive branch; or

(2) any other oath required by law in connection with employment in the executive branch.

(c) An oath authorized or required under the laws of the United States may be administered by—

(1) the Vice President; or

(2) an individual authorized by local law to administer oaths in the State, District, or territory or possession of the United States where the oath is administered.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 411.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 18	R.S. § 1758.
(b)	5 U.S.C. 16a (a) (less 1st 9 words after last comma).	June 26, 1943, ch. 145, § 206 (less 1st 9 words after last comma), 57 Stat. 196.
(c)	5 U.S.C. 16a (b)	Sept. 30, 1961, Pub. L. 87-322 (par. under "General Provision"), 75 Stat. 743.
	5 U.S.C. 92a	July 3, 1926, ch. 752, 44 Stat. 830.

In subsection (b), the words "On and after June 26, 1943" are omitted as executed, and the word "officer" is omitted as included in "employee". The words "Executive agency" are coextensive with and substituted for "executive departments or independent establishments, including any agency the majority of the stock of which is owned by the Government of the United States" because of the definition of "Executive agency" in section 105. The words "or the Secretary of a military department with respect to an employee of his department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301. The words "of the Federal Government" and "and to have the same force and effect as oaths administered by officers having seals" are omitted as unnecessary.

In subsection (c), the word "Constitution" is omitted because "laws", as used in this title, encompasses the Constitution. In subsection (c)(1), the words "of the United States" are omitted as unnecessary. In subsection (c)(2), the words "an individual authorized by local law to administer oaths in the State, District, or territory, or possession of the United States where the oath is administered" are coextensive with and substituted for "notaries public duly appointed in any State, District, or Territory of the United States, by clerks and prothonotaries of courts of record of any such State, District, or Territory, by the deputies of such clerks and prothonotaries, and by all magistrates authorized by the laws of or pertaining to any such State, District, or Territory to administer oaths".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 1011.

§ 2904. Oath; administered without fees

An employee of an Executive agency who is authorized to administer the oath of office required by section 3331 of this title, or any other oath required by law in connection with employment in the executive branch, may not charge or receive a fee or pay for administering the oath.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 412.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 16a (a) (1st 9 words after last comma).	June 26, 1943, ch. 145, § 206 (1st 9 words after last comma), 57 Stat. 196.
		Sept. 30, 1961, Pub. L. 87-332 (so much of par. under "General Provision" as inserted "(a)"), 75 Stat. 743.
....	5 U.S.C. 20	Aug. 29, 1890, ch. 820, § 1 (2d sentence under "Fourth Auditor's Office"), 26 Stat. 371.

The section is restated to combine former sections 16a(a) (1st 9 words after last comma) and 20. The prohibition is restated in positive form. The words "officer" and "clerk" are omitted as included in "employee". Reference to oaths taken on promotion is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 2905. Oath; renewal

(a) An employee of an Executive agency or an individual employed by the government of the District of Columbia who, on original appointment, subscribed to the oath of office required by section 3331 of this title is not required to renew the oath because of a change in status so long as his service is continuous in the agency in which he is employed, unless, in the opinion of the head of the Executive agency, the Secretary of a military department with respect to an employee of his department, or the Commissioners of the District of Columbia, the public interest so requires.

(b) An individual who, on appointment as an employee of a House of Congress, subscribed to the oath of office required by section 3331 of this title is not required to renew the oath so long as his service as an employee of that House of Congress is continuous.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 412.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 17b	Aug. 14, 1937, ch. 624, 50 Stat. 640. Nov. 22, 1943, ch. 303, 57 Stat. 591.
(b)	5 U.S.C. 17c	Mar. 28, 1955, ch. 17, 69 Stat. 14.

In subsection (a), the word "civilian" is omitted as unnecessary because of the definition of "employee" in section 2105. The words "Executive agency" are coextensive with and substituted for "executive departments and independent establishments of the United States" because of the definition of "Executive agency" in section 105. The words "the Secretary of a military department with respect to an employee of his department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 2906. Oath; custody

The oath of office taken by an individual under section 3331 of this title shall be delivered by him to, and preserved by, the House of Congress, agency, or court to which the office pertains.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 412.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 21	R.S. § 1759.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER II—REPORTS

§ 2951. Reports to the Civil Service Commission

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that—

(1) the appointing authority notify the Civil Service Commission in writing of the following actions and their dates as to each individual selected for appointment in the competitive service from among those who have been examined—

(A) appointment and residence of appointee;

(B) separation during probation;

(C) transfer;

(D) resignation; and

(E) removal; and

(2) the Commission keep records of these actions.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 412.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 633 (2)8 (less last sentence).	Jan. 16, 1883, ch. 27, § 2(2)8 (less last sentence), 22 Stat. 404.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302.

In paragraph (1), the word "authority" is substituted for "power". The words "or employment" are omitted as included within "appointment".

In paragraph (1) (B), the words "separation during probation" are substituted for "of the rejection of any such person after probation". The words "rejection . . . after probation" refer to a rejection, i.e., separation, after a portion of the probationary period has been served but before the end of the probationary period. This is so because an individual can be rejected only during the probationary period. After he has completed the probationary period, he can be removed only under procedures governing removals from the competitive service, and removals of this nature are covered by paragraph (E).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Official Personnel Folders

Notice required by this section as part of Official Personnel Folders, see Ex. Ord. No. 10561, Sept. 14, 1954, 19 F.R. 5963, set out as a note under section 1302 of this title.

Cross References

President's power to grant exceptions from provisions of this section, see section 3302 of this title.

Section Referred to in Other Sections

This section is referred to in section 3302 of this title.

§ 2952. Time of making annual reports

Except when a different time is specifically prescribed by statute, the head of each Executive department or military department shall make the annual reports, required to be submitted to Congress, at the beginning of each regular session of Congress. The reports shall cover the transactions of the preceding year.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 413.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 106	R.S. § 195.

The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101.

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 2953. Reports to Congress on additional employee requirements

(a) Each report, recommendation, or other communication, of an official nature, of an Executive agency which—

(1) relates to pending or proposed legislation which, if enacted, will entail an estimated annual expenditure of appropriated funds in excess of $1,000,000;

(2) is submitted or transmitted to Congress or a committee thereof in compliance with law or on the initiative of the appropriate authority of the executive branch; and

(3) officially proposes or recommends the creation or expansion, either by action of Congress or by administrative action, of a function, activity, or authority of the Executive agency to be in addition to those functions, activities, and authorities thereof existing when the report, recommendation, or other communication is so submitted or transmitted;

shall contain a statement, concerning the Executive agency, for each of the first 5 fiscal years during which each additional or expanded function, activity, or authority so proposed or recommended is to be in effect, setting forth the following information—

(A) the estimated maximum additional—

(i) man-years of civilian employment, by general categories of positions;

(ii) expenditures for personal services; and

(iii) expenditures for all purposes other than personal services;

which are attributable to the function, activity, or authority and which will be required to be effected by the Executive agency in connection with the performance thereof; and

(B) such other statement, discussion, explanation, or other information as is considered advisable by the appropriate authority of the executive branch or that is required by Congress or a committee thereof.

(b) Subsection (a) of this section does not apply to—

(1) the Central Intelligence Agency;

(2) a Government controlled corporation; or

(3) the General Accounting Office.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 413.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 642a	July 25, 1956, ch. 730, § 1, 70 Stat. 652.

In subsection (a), the words, "Executive agency" are substituted for "department, agency, or independent establishment of the executive branch of the Federal Government (including any corporation wholly owned by the United States)" in view of the definition of "Executive agency" in section 105. The exception of "a Government controlled corporation" is subsection (b)(2) is added to preserve the application to corporations wholly owned by the United States.

The exception of "the General Accounting Office" in subsection (b)(3) is added to preserve application to the executive branch.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 2954. Information to committees of Congress on request

An Executive agency, on request of the Committee on Government Operations of the House of Representatives, or of any seven members thereof, or on request of the Committee on Government Operations of the Senate, or any five members thereof, shall submit any information requested of it relating to any matter within the jurisdiction of the committee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 413.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 105a	May 29, 1928, ch. 901, § 2, 45 Stat. 996.

The words "Executive agency" are substituted for "executive department and independent establishment" in view of the definition of "Executive agency" in section 105.

The words "Committee on Government Operations of the House of Representatives" are substituted for "Committee on Expenditures in the Executive Departments of the House of Representatives" on authority of H. Res. 647 of the 82d Congress, adopted July 3, 1952.

The words "Committee on Government Operations of the Senate" are substituted for "Committee on Expenditures in the Executive Departments of the Senate" on authority of S. Res. 280 of the 82d Congress, adopted Mar. 3, 1952.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CHANGE OF NAME

The Committee on Government Operations of the Senate, referred to in text, was abolished and replaced by the Committee on Governmental Affairs of the Senate, effective Feb. 11, 1977. See Rule XXV of the Standing Rules of the Senate, as amended by Senate Resolution 4 (popularly cited as the "Committee System Reorganization Amendments of 1977"), approved Feb. 4, 1977.

Subpart B—Employment and Retention

CHAPTER 31—AUTHORITY FOR EMPLOYMENT

Sec.

3101. General authority to employ.
3102. Employment of readers for blind employees.
3103. Employment at seat of Government only for services rendered.
3104. Employment of specially qualified scientific and professional personnel.
3105. Appointment of hearing examiners.
3106. Employment of attorneys; restrictions.
3107. Employment of publicity experts; restrictions.
3108. Employment of detective agencies; restrictions.
3109. Employment of experts and consultants; temporary or intermittent.
3110. Employment of relatives; restrictions.

AMENDMENTS

1967—Pub. L. 90-206, title II, § 221(b), Dec. 16, 1967, 81 Stat. 640, added item 3110.

§ 3101. General authority to employ

Each Executive agency, military department, and the government of the District of Columbia may employ such number of employees of the various classes recognized by chapter 51 of this title as Congress may appropriate for from year to year.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 414.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 43	R.S. § 169. June 26, 1930, ch. 618, 46 Stat. 817.
....	5 U.S.C. 514d (2d par.).	Sept. 21, 1944, ch. 412, § 709, 58 Stat. 743.

The authorization is restated to conform to the style of this title. The word "Executive agency" are substituted for "executive department, independent establishment" in view of the definitions in sections 103, 104, and 105. The source statute (an act to authorize the appointment of employees in the executive branch etc.) applied to the entire executive branch, and government corporations as well as other agencies in the executive branch were included within the words "independent establishment". The words "or a military department" are inserted to preserve the application of the source statute. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source statute for this subsection, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301. The words "for services in the District of Columbia or elsewhere" are eliminated as surplusage. The reference to chapter 51 is substituted for the reference to the Classification Act of 1923 because the Act of Oct. 28, 1949, ch. 782, § 1106(a), 63 Stat. 972, amended the section to refer to the Classification Act of 1949, which is carried into this title. The proviso in former section 43 and former section 514d (2d par.) are omitted as superseded by former section 22a, which is carried into section 302. The last sentence of the Act of June 26, 1930, is omitted as executed.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Limitation on the Number of Civilian Officers and Employees in the Executive Branch

Pub. L. 91-47, title V, § 503, July 22, 1969, 83 Stat. 83, repealed section 201 of Pub. L. 90-364, title II, June 28, 1968, 82 Stat. 270, which provided for limitation on the number of civilian officers and employees in the executive branch and which was formerly set out under this section.

Employment of Personnel During National Emergency Proclaimed on Dec. 16, 1950

Section 1310 of act Nov. 1, 1951, ch. 664, Ch. XIII, 65 Stat. 757, as amended June 5, 1952, ch. 369, Ch. XIII, § 1302, 66 Stat. 122; Sept. 1, 1954, ch. 1208, title VI, § 602, 68 Stat. 1115; Oct. 11, 1962, Pub. L. 87-793, § 717(b), 76 Stat. 858; Aug. 6, 1965, Pub. L. 89-114, 79 Stat. 448; Oct. 11, 1967, Pub. L. 90-105, § 3, 81 Stat. 274; Apr. 21, 1976, Pub. L. 94-273, § 4(5), 90 Stat. 377, provided that:

"Immediately upon the enactment of this Act [Nov. 1, 1951] and until termination of the national emergency proclaimed by the President on December 16, 1950 [all powers and authorities under section 1310 of act Nov. 1, 1951, will terminate on Sept. 14, 1978, pursuant to section 101 of Pub. L. 94-412, Sept. 14, 1976, 90 Stat. 1225]:

"(a) The Civil Service Commission and the heads of the executive departments, agencies, and corporations shall make full use of their authority to require that initial appointments to positions in and outside the competitive service shall be made on other than a permanent basis in order to limit the number of permanent employees to that required for the efficiency of the Federal civil service: *Provided,* That any position vacated by a permanent employee called to military service or transferred to a national defense agency shall not be filled except on a temporary or indefinite basis. All appointments, reinstatements, transfers, and promotions to positions subject to the Classification Act of 1949 [chapter 51 of this title] shall be made with the condition and notice to each individual appointed, reinstated, transferred, or promoted that the classification grade of the position is subject to post-audit and correction by the appropriate departmental or agency personnel office or the Civil Service Commission.

"(b) The Civil Service Commission shall facilitate the transfer of Federal employees from nondefense to defense activities and encourage the retention of employees in defense activities, and shall provide reemployment rights for permanent employees in the activities from which such employees are transferred.

"(c) The Civil Service Commission shall make full use of its authority to prevent excessively rapid promotions in the competitive civil service and to require correction of improper allocations to higher grades of positions subject to the Classification Act of 1949, as amended [now section 5101 et seq. of this title]. No person in any executive department or agency whose position is subject to the Classification Act of 1949, as amended [now section 5101 et seq. of this title], shall be promoted or transferred to a higher grade subject to such Act [now section 5101 et seq. of this title] without having served at least one year in the next lower grade: *Provided,* That the Civil Service Commission for positions in the competitive service and the head of the employing agency for positions outside the competitive service may by regulation provide for promotions of two grades in one year (1) to positions not higher than GS-5; (2) to positions not higher than GS-11 which are in a line of work properly classified under the Classification Act of 1949 [now section 5101 et seq. of this title] at two-grade intervals; (3) to positions in the same line of work when the employee has completed a training period under a training program approved by the Civil Service Commission for positions in the competitive service, or approved by the head of the employing agency for positions outside the competitive service; and (4) of an employee of the agency concerned when there is no position in the normal line of promotion in the grade immediately below that of the position to be filled: *Provided further,* That this subsection shall not apply to any case involving an employee who is within reach for appointment to a higher grade position on a competitive civil service register, or is eligible for appointment, in accordance with a regular appointment system or procedure established prior to September 1, 1950, to a higher grade position outside the competitive Civil Service, or being advanced up to a grade level from which he had been demoted or separated because of reduction in force or being advanced to a grade level not exceeding that for which he had previously established eligibility as required by the terms hereof: *Provided further,* That, notwithstanding the provisions hereof, and in order to avoid undue hardship or inequity, the Civil Service Commission, when requested by the head of the agency involved, may authorize promotions in individual cases of meritorious nature.

"(d) From time to time, but at least annually, each executive department and agency shall (1) review all positions which since September 1, 1950, have been created or placed in a higher grade or level of difficulty and responsibility of work or in a higher basic pay level, (2) abolish all such positions which are found to be unnecessary, (3) with respect to such positions which are found to be necessary, make such adjustments as may be appropriate in the classification grades of those positions which are subject to the Classification Act of 1949, as amended [now section 5101 et seq. of this title], or in the basic pay levels of those positions which are subject to other pay-fixing authority. Not later than October 31 of each year each department and agency shall submit a report to the Post Office and Civil Service Committees and Appropriations Committees of the Senate and House of Representatives concerning the action taken under this paragraph, together with information comparing the total number of employees on the payroll on September 30 and their average grade and salary with similar information for the previous September 30, and each annual and supplemental budget estimate shall include a statement comparing the average grade and salary provided for in each item of appropriation or fund allowance therein with similar figures reported for the two previous periods.

"(e) This section does not and shall not be construed to amend or modify the Veterans' Preference Act of 1944 (Public Law 359, Seventy-eighth Congress), as amended.

"(f) This section shall not apply to the postal field service of the Post Office Department."

Cross References

Bureau of Indian Affairs, assistant or deputy commissioners as appointed under authority of section, see section 2a of Title 25, Indians.

Section Referred to in Other Sections

This section is referred to in title 25 section 2a.

§ 3102. Employment of readers for blind employees

(a) For the purpose of this section—

(1) "agency" means—

(A) an Executive agency;

(B) the Library of Congress; and

(C) the government of the District of Columbia;

(2) "head of each agency" means the Commissioner of the District of Columbia with respect to the government of the District of Columbia;

(3) "blind employee" means an individual employed by an agency who establishes, to the satisfaction of the appropriate authority of the agency concerned and under regulations of the head of that agency, that he has an impairment of sight, either permanent or temporary, which is so severe or disabling that the employment of a reading assistant or assistants for that individual is necessary or desirable to enable him properly to perform his work; and

(4) "nonprofit organization" means an organization determined by the Secretary of the Treasury to be an organization described by section 501(c) of title 26 which is exempt from taxation under section 501(a) of title 26.

(b) The head of each agency may employ a reading assistant or assistants for a blind employee of his agency, to serve without pay from the agency, without regard to—

(1) the provisions of this title governing appointment in the competitive service; and

(2) chapter 51 and subchapter III of chapter 53 of this title.

A reading assistant so employed may be paid and receive pay for his services as reading assistant by and from the blind employee or a nonprofit organization, without regard to section 209 of title 18.

(c) This section may not be held or considered to prevent or limit in any way the assignment to a blind employee by an agency of clerical or secretarial assistance, at the expense of the agency and under statutes and regulations currently applicable at the time, if that assistance normally is provided, or authorized to be provided, in that manner under currently applicable statutes and regulations.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 414; Pub. L. 90-623, § 1(3), Oct. 22, 1968, 82 Stat. 1312.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 43a	Aug. 29, 1962, Pub. L. 87-614, 76 Stat. 408.

In subsection (a)(1), the word "agency" is substituted for "department". The words "Executive agency" are coextensive with and substituted for "each executive department of the Federal Government, each agency or independent establishment in the executive branch of such Government, each corporation wholly owned or controlled by such Government, and the General Accounting Office" in view of the definition of "Executive agency" in section 105.

In subsection (a)(3), the words "individual employed" are substituted for "employee" so as to include individuals employed by the government of the District of Columbia who are not employees as defined by section 2105.

In subsection (b), the word "may" is substituted for "is authorized" and the words "in his discretion" are omitted as unnecessary in view of the permissive nature of the authority. The words "in the provisions of this title governing appointment in the competitive service" are substituted for "the civil service rules". The words "section 209 of title 18" are substituted for "section 1914 of title 18" on authority of the Act of Oct. 24, 1962, Pub. L. 87-849, § 2, 76 Stat. 1126.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1968—Subsec. (a)(2). Pub. L. 90-623 substituted "Commissioner" for "Board of Commissioners".

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

Transfer of Functions

Mayor of the District of Columbia succeeded the Commissioner of the District of Columbia, referred to in subsec. (a)(2), pursuant to section 421 of Pub. L. 93-198, title IV, Dec. 24, 1973, 87 Stat. 789. The Office of Commissioner of the District of Columbia, as established by Reorg. Plan No. 3 of 1967, was abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, and replaced by the Office of Mayor of the District of Columbia by section 421 of Pub. L. 93-198, classified to section 1-161 of the District of Columbia Code.

§ 3103. Employment at seat of Government only for services rendered

An individual may be employed in the civil service in an Executive department at the seat of Government only for services actually rendered in connection with and for the purposes of the appropriation from which he is paid. An individual who violates this section shall be removed from the service

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 415.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 46	Aug. 5, 1882, ch. 389, § 4 (less 225th through 316th words), 22 Stat. 255. Sept. 23, 1950, ch. 1010, § 7, 64 Stat. 986.
....	5 U.S.C. 47 (so much as relates removal).	Aug. 23, 1912, ch. 350, § 5 (so much as relates to removal), 37 Stat. 414.

The words "civil officer, draughtsman, copyist, messenger, assistant messenger, mechanic, watchman, laborer, or other employee" are omitted as obsolete language and "individual" is substituted therefor. The words "in the civil service" are added to preserve the application of former section 46 to civilian employees. The words "or subordinate bureaus or offices thereof" are omitted as surplusage. The words "and at the rate of pay usual and proper for the services" are omitted as surplusage since all pay rates are governed by statute.

All after the 75th words of section 4 of the Act of Aug. 5, 1882, as amended by section 7(b) of the Act of Sept. 23, 1950, except the 255th through 316th words, are omitted as executed. The 255th through 296th words are scheduled for repeal as superseded (see Table II-b), and the 297th through 316th words are codified in section 5501. The Act of Aug. 15, 1876, ch. 287, § 5, 19 Stat. 169, cited as authority for former section 46 was repealed by section 7(a) of the Act of Sept. 23, 1950.

In the last sentence, the word "removed" is substituted for "summarily removed" because of the provisions of the Lloyd-LaFollette Act, 37 Stat. 555, as amended, and the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Provisions relating to compensation, see section 5101 et seq. of this title.

Section Referred to in Other Sections

This section is referred to in title 18 section 1916.

§ 3104. Employment of specially qualified scientific and professional personnel

(a) The head of an agency named below may establish scientific or professional positions to carry out the research and development functions of his agency which require the services of specially qualified personnel within the following limits:

(1) Department of the Interior—not more than 8.

(2) Department of Agriculture—not more than 20.

(3) Department of Health, Education, and Welfare— not more than 13.

(4) Department of Commerce—not more than 30, of which at least 5 are for the United States Patent Office in its examining and related activities.

[(5) Repealed. Pub. L. 91-375, § 6(c)(5), Aug. 12, 1970, 84 Stat. 776.]

(6) United States Arms Control and Disarmament Agency—not more than 14.

(7) Library of Congress—not more than 8.

(8) National Aeronautics and Space Administration—not more than 12.

(b) When a general appropriation statute authorizes an agency named by this section to establish and fix the pay of scientific or professional positions similar to those authorized by this section, the number of positions authorized by this section is reduced by the number of positions authorized by the appropriation statute, unless otherwise specifically provided. This subsection does not apply to the National Aeronautics and Space Administration.

(c) The head of each agency authorized to establish and fix the pay of positions under this section and section 5361 of this title shall submit to Congress not later than December 31 of each year (or in the case of the Administrator of the National Aeronautics and Space Administration not later than February 1 of each year), a report setting forth—

(1) the number of these positions established in his agency during that calendar year (or in the case of the National Aeronautics and Space Administration during the previous calendar year); and

(2) the name, rate of pay, and description of the qualifications of each incumbent, together with a statement of the functions performed by each.

When the head of such an agency considers full public report on these items detrimental to the national security, he may omit the items from his annual report and, instead, present the information in executive session of such committee of a House of Congress as the presiding officer thereof may designate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 415; Pub. L. 90-83, § 1(7), Sept. 11, 1967, 81 Stat. 196; Pub. L. 91-375, § 6(c)(5), Aug. 12, 1970, 84 Stat. 776.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 1161 (less 2d sentence of (g)).	Oct. 4, 1961, Pub. L. 87-367, § 202 "Sec. 1", 75 Stat. 789. Oct. 11, 1962, Pub. L. 87-793, § 1001 (a)(2) "(g) (less 2d sentence)", 76 Stat. 863.
(b)	5 U.S.C. 1162 (c).	Oct. 4, 1961, Pub. L. 87-367, § 202 "Sec. 2(c)", 75 Stat. 790.
(c)	5 U.S.C. 1163	Oct. 4, 1961, Pub. L. 87-367, § 202 "Sec. 3", 75 Stat. 790.

In subsection (a), the authority to fix pay is omitted and carried into section 5361.

In subsection (b), the words "subsequent to February 1, 1958" appearing in former section 1162(c) are omitted as obsolete.

The Act of Aug. 1, 1947, ch. 433, 61 Stat. 715, as amended by the following Acts is omitted from the derivation and repealed (see Table II) as superseded by the Act of Oct. 4, 1961, Pub. L. 87-367, § 202, 75 Stat. 789, which is carried into this section and sections 3325 and 5361:

June 24, 1948, ch. 624, 62 Stat. 604.
July 13, 1949, ch. 332, 63 Stat. 410.
July 31, 1956, ch. 804 § 501(a), 70 Stat. 761.
Aug. 10, 1956, ch. 1041, § 28, 70A Stat. 631.
June 20, 1958, Pub. L. 85-462, § 12(a)-(d), 72 Stat. 213A.
Sept. 23, 1959, Pub. L. 86-370, § 4, 73 Stat. 651.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
3104(a)(5)	5 App.: 1161(e)	July 5, 1966, Pub. L. 89-492 § 5, 80 Stat. 262.

The amendment to 5 U.S.C. 3104(a)(5) reflects Public Law 89-492, section 5.

The other amendments to 5 U.S.C. 3104 are based on section 302 of the act of July 20, 1958, Public Law 85-568 (72 Stat. 433), 42 U.S.C. 2453, and transfer plan, effective March 15, 1960, 25 Federal Register 2151, section (2)(a)(2), (b) of which in effect transferred from the Department of Defense to the National Aeronautics and Space Administration 12 of the 450 scientific and professional positions authorized by section 2 of Public Law 86-377 (10 U.S.C. 1581). Provisions relating to the date for reporting to Congress are based on 10 U.S.C. 1582.

AMENDMENTS

1970—Subsec. (a)(5). Pub. L. 91-375 repealed provision for employment in Post Office Department in scientific or professional positions of not more than 6 qualified individuals.

CHANGE OF NAME

The Patent Office, referred to in subsec. (a)(4), was redesignated the Patent and Trademark Office by Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other offices and officers of the Department of Commerce under the Act of August 1, 1947, as amended, now covered by this section, to the extent that such Act authorized scientific and professional positions relating primarily to functions transferred to the Secretary of Transportation by section 1655(a) of Title 49, Transportation, were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931, which created the Department of Transportation. See section 1655 of Title 49, Transportation.

CROSS REFERENCES

Positions established under this section in the competitive service but without competitive examination, see section 3325 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3325, 5361 of this title.

§ 3105. Appointment of hearing examiners

Each agency shall appoint as many hearings[1] examiners as are necessary for proceedings required to be conducted in accordance with sections 556 and 557 of this title. Hearing examiners shall be assigned to cases in rotation so far as practicable, and may not perform duties inconsistent with their duties and responsibilities as hearing examiners.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 415.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1010 (1st sentence).	June 11, 1946, ch. 324, § 11 (1st sentence), 60 Stat. 244.

The words "Subject to the civil service" are omitted as unnecessary inasmuch as appointments are made subject to the civil service laws unless specifically excepted. The words "and other laws not inconsistent with this chapter" are omitted as unnecessary because of the organization of this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF AGRICULTURE

Functions vested by former section 1001 et seq. [now section 551 et seq.] of this title in hearing examiners employed by the Department of Agriculture were not included in the transfer of functions of officers, agencies, and employees of the Department of Agriculture made by 1953 Reorg. Plan No. 2, § 1, eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF COMMERCE

Functions vested by former section 1001 et seq. [now section 551 et seq.] of this title in hearing examiners employed by the Department of Commerce were not included in the functions of officers, agencies, and employees of that Department which were transferred to the Secretary of Commerce by 1950 Reorg. Plan No. 5, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE INTERIOR

Functions vested by former section 1001 et seq. [now section 551 et seq.] of this title in hearing examiners employed by the Department of the Interior were not included in the transfer of functions of officers, agencies and employees of the Department of the Interior to the Secretary of the Interior, made by 1950 Reorg. Plan No. 3, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF JUSTICE

Functions vested by former section 1001 et seq. [now section 551 et seq.] of this title in hearing examiners employed by the Department of Justice were not included in the transfer of functions of officers, agencies and employees of the Department of Justice to the Attorney General, made by 1950 Reorg. Plan No. 2, § 1, eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF LABOR

Functions vested by former section 1001 et seq. [now section 551 et seq.] of this title in hearing examiners employed by the Department of Labor were not included in the transfer of functions of officers, agencies, and employees of the Department of Labor to the Secretary of Labor, made by 1950 Reorg. Plan No. 6, § 1, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263, set out in the Appendix to this title.

HEARING EXAMINERS EMPLOYED BY DEPARTMENT OF THE TREASURY

Functions vested by former section 1001 et seq. [now section 551 et seq.] of this title in hearing examiners employed by the Department of the Treasury were not included in the transfer of functions of officers, agencies and employees of the Department of the Treasury to the Secretary of the Treasury, made by 1950 Reorg. Plan No. 26, § 1, eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, set out in the Appendix to this title.

---

[1] So in original.

HEARING EXAMINERS APPOINTED FOR INDIAN PROBATE WORK

Hearing examiners appointed for Indian probate work need not be appointed pursuant to this section, see section 372-1 of Title 25, Indians.

CROSS REFERENCES

Additional requirements imposed by statute or otherwise recognized by law not limited or repealed by this section, see section 559 of this title.

Civil Service Commission, investigations, reports, and regulations for purposes of this section as relating to hearing examiners, see section 1305 of this title.

Communications Act, joint boards as having the same jurisdiction and powers as is conferred upon examiner by this section, see section 410 of Title 47, Telegraphs, Telephones, and Radiotelegraphs.

Compensation, see section 5362 of this title.

Indian probate work, appointment of hearing officers, see section 372-1 of Title 25, Indians.

Matters involving selection or tenure of employees exempt from application of adjudicatory provisions of section 554 of this title except as they involve hearing examiners appointed under this section, see section 554 of this title.

Removal, see section 7521 of this title.

Subsequent statutes to be held to supersede or modify this section only to the extent that they do so expressly, see section 559 of this title.

Use of hearing examiners from other agencies in case of temporary or occasional insufficiency in an agency, see section 3344 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 554, 556, 559, 1305, 3344, 4301, 5108, 5335, 5362, 7521 of this title; title 15 sections 327, 1715; title 29 sections 661, 792; title 30 sections 804, 932a; title 33 sections 873, 919; title 42 sections 2000e-4, 3608; title 47 section 410.

§ 3106. Employment of attorneys; restrictions

Except as otherwise authorized by law, the head of an Executive department or military department may not employ an attorney or counsel for the conduct of litigation in which the United States, an agency, or employee thereof is a party, or is interested, or for the securing of evidence therefor, but shall refer the matter to the Department of Justice. This section does not apply to the employment and payment of counsel under section 1037 of title 10.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 415.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 49	R.S. § 189 Sept. 2, 1958, Pub. L. 85-861, § 7(a), 72 Stat. 1555.
....	5 U.S.C. 314	R.S. § 365 Sept. 2, 1958, Pub. L. 85-861, § 7(b), 72 Stat. 1555.

Sections 189 and 365 of the Revised Statutes, as amended, are combined and the section is revised to express the effect of the law since department heads have long employed, with the approval of Congress, attorneys to advise them in the conduct of their official duties. The law which concentrates the authority for the conduct of litigation in the Department of Justice is codified in section 516 of title 28 by this bill.

The words "Executive department" are substituted for "department" as the definition of "department" applicable to R.S. § 189 is coextensive with the definition of "Executive department" in section 101. The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

R.S. § 189 was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 1, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3107. Employment of publicity experts; restrictions

Appropriated funds may not be used to pay a publicity expert unless specifically appropriated for that purpose.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 416.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 54	Oct. 22, 1913, ch. 32, § 1 (last par. under "Interstate Commerce Commission"), 38 Stat. 212.

The prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3108. Employment of detective agencies; restrictions

An individual employed by the Pinkerton Detective Agency, or similar organization, may not be employed by the Government of the United States or the government of the District of Columbia.

(Pub. L. 89- 554, Sept. 6, 1966, 80 Stat. 416.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 53	Mar. 3, 1893, ch. 208 (5th par. under "Public Buildings"), 27 Stat. 591.

The prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3109. Employment of experts and consultants; temporary or intermittent

(a) For the purpose of this section—

(1) "agency" has the meaning given it by section 5721 of this title; and

(2) "appropriation" includes funds made available by statute under section 849 of title 31.

(b) When authorized by an appropriation or other statute, the head of an agency may procure by contract the temporary (not in excess of 1 year) or intermittent services of experts or consultants or an organization thereof, including stenographic reporting services. Services procured under this section are without regard to—

(1) the provisions of this title governing appointment in the competitive service;

(2) chapter 51 and subchapter III of chapter 53 of this title; and

(3) section 5 of title 41, except in the case of stenographic reporting services by an organization.

However, an agency subject to chapter 51 and subchapter III of chapter 53 of this title may pay a rate for services under this section in excess of the daily equivalent of the highest rate payable under section 5332 of this title only when specifically authorized by the appropriation or other statute authorizing the procurement of the services.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 416.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 55a	Aug. 2, 1946, ch. 744, § 15, 60 Stat. 810.

In subsection (a), the definitions of "agency" and "appropriation" are added on authority of the Act of Aug. 2, 1946, ch. 744, § 18, 60 Stat. 811.

In subsection (b), the words "the provisions of this title governing appointment in the competitive service" are substituted for "the civil-service laws". The words "chapter 51 and subchapter III of chapter 53 of this title" are substituted for the reference to the classification laws which originally meant the Classification Act of 1923, as amended. Exception from the Classification Act of 1949 is based on sections 202(27) and 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 956, 972.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Community Relations Service, Department of Commerce, authority of Director to procure services as authorized by this section at $75 per diem limitation, see section 2000g of Title 42, The Public Health and Welfare.

Education professions development grants and contracts, see section 1091f of Title 20, Education.

Employment of experts or consultants by Director of the Administrative Office of the United States Courts, see note set out under section 602 of Title 28, Judiciary and Judicial Procedure.

General Accounting Office authorized to credit accounts of the special disbursing agent of Saint Elizabeths Hospital with certain amounts, notwithstanding this section, see section 168 of Title 24, Hospitals and Asylums.

International Health Research Act of 1960, application of section to, see sections 2102 and 2103 of Title 22, Foreign Relations and Intercourse, and section 242*l* of Title 42, The Public Health and Welfare.

National Advisory Council on Education Professions Development, see section 1091a of Title 20, Education.

Travel expenses of consultants or experts, see section 5703 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 575, 5102, 5306, 5612 of this title; title 7 section 16; title 12 section 2405; title 15 sections 205i, 634d, 636, 766, 1026, 1942, 2206, 2218, 2451; title 16 sections 469b, 470m, 1052, 1406; title 17 App. section 805; title 18 sections 3153, 3168, 4204, 4352; title 19 section 2171; title 20 sections 959, 1091f, 1221e, 1233d, 1505, 2012, 2106; title 21 section 1116; title 22 sections 272a, 277d-3, 280b, 280i, 280k, 290b, 290f, 2024, 2083, 2102, 2103, 2386, 2512, 2581, 2825, 2847, 2873, 2905, 3106; title 23 section 303; title 25 section 640d-11; title 28 section 625; title 29 sections 656, 671, 676, 1302; title 31 sections 52c, 1154; title 40 sections 822, 873; title 42 sections 242*l*, 286d, 287b, 300k-3, 386d, 1975d, 2473, 3035a, 3211, 3765, 4306, 4307, 4343, 5042, 5149, 5612, 5816, 6616; title 43 section 1616; title 44 section 3319; title 45 section 715; title 49 sections 26b, 1657, 1903; title 50 App. sections 2158, 2158a, 2169.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1-1002, 4-533a, 11-1525, 31-1716 of the District of Columbia Code.

§ 3110. Employment of relatives; restrictions

(a) For the purpose of this section—

(1) agency means—

(A) an Executive agency;

(B) an office, agency, or other establishment in the legislative branch;

(C) an office, agency, or other establishment in the judicial branch; and

(D) the government of the District of Columbia;

(2) "public official" means an officer (including the President and a Member of Congress), a member of the uniformed service, an employee and any other individual, in whom is vested the authority by law, rule, or regulation, or to whom the authority has been delegated, to appoint, employ, promote, or advance individuals, or to recommend individuals for appointment, employment, promotion, or advancement in connection with employment in an agency; and

(3) "relative" means, with respect to a public official, an individual who is related to the public official as father, mother, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, husband, wife, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

(b) A public official may not appoint, employ, promote, advance, or advocate for appointment, employment, promotion, or advancement, in or to a civilian position in the agency in which he is serving or over which he exercises jurisdiction or control any individual who is a relative of the public official. An individual may not be appointed, employed, promoted, or advanced in or to a civilian position in an agency if such appointment, employment, promotion, or advancement has been advocated by a public official, serving in or exercising jurisdiction or control over the agency, who is a relative of the individual.

(c) An individual appointed, employed, promoted, or advanced in violation of this section is not entitled to pay, and money may not be paid from the Treasury as pay to an individual so appointed, employed, promoted, or advanced.

(d) The Civil Service Commission may prescribe regulations authorizing the temporary employment, in the event of emergencies resulting from natural disasters or similar unforeseen events or circumstances, of individuals whose employment would otherwise be prohibited by this section.

(e) This section shall not be construed to prohibit the appointment of an individual who is a preference eligible in any case in which the passing over of that individual on a certificate of eligibles furnished under section 3317(a) of this title will result in the selection for appointment of an individual who is not a preference eligible.

(Added Pub. L. 90-206, title II, § 221(a), Dec. 16, 1967, 81 Stat. 640.)

EFFECTIVE DATE

Section 220(a)(1) of Pub. L. 90-206 provided, except as otherwise expressly provided, that: "This section [which enacted provisions set out as a note under section 8704 of this title] and section 201 [which enacted provisions set out as Short Title note under section 5332 of this title], 207 [which amended section 5303 of this title], 212 [which enacted provisions set out as a note under section 5304 of this title], 218 [which enacted provisions set out as a note under section 5332 of this title], 221 [which enacted this section and provisions set out as a note under this section], 224(a) and (b) [which amended sections 4101 and 8339 of this title], and 225 [which enacted sections 351-361 of Title 2, The Congress] shall become effective on the date of enactment of this title [Dec. 16, 1967]."

RETROACTIVE EFFECT

Section 221(c) of Pub. L. 90-206 provided that: "The amendments made by this section [enacting this section] do not apply to an appointment, employment, advancement, or promotion made or advocated by a public official of any individual who is a relative of the public official if, prior to the effective date of this section [see Effective Date note under this section], the individual was appointed by the public official, or received an appointment advocated by the public official, and is serving under the appointment on such effective date."

Section 221(c) of Pub. L. 90-206 effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as a note under this section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 410.

CHAPTER 33—EXAMINATION, SELECTION, AND PLACEMENT

SUBCHAPTER I—EXAMINATION, CERTIFICATION, AND APPOINTMENT

Sec.
3301. Civil service; generally.
3302. Competitive service; rules.
3303. Competitive service; recommendations of Senators or Representatives.
3304. Competitive service; examinations.
3304a. Competitive service; career appointment after 3 years' temporary service.
3305. Competitive service; examinations; when held.
3306. Competitive service; departmental service; apportionment.
3307. Competitive service; maximum-age entrance requirements; exceptions.
3308. Competitive service; examinations; educational requirements prohibited; exceptions.
Sec.
3309. Preference eligibles; examinations; additional points for.
3310. Preference eligibles; examinations; guards, elevator operators, messengers, and custodians.
3311. Preference eligibles; examinations; crediting experience.
3312. Preference eligibles; physical qualifications; waiver.
3313. Competitive service; registers of eligibles.
3314. Registers; preference eligibles who resigned.
3315. Registers; preference eligibles furloughed or separated.
3315a.[1] Registers; individuals receiving compensation for work injuries.
3316. Preference eligibles; reinstatement.
3317. Competitive service; certification from registers.
3318. Competitive service; selection from certificates.
3319. Competitive service; selection; members of family restriction.
3320. Excepted service; government of the District of Columbia; selection.
3321. Competitive service; probation; period of.
3322. Competitive service; temporary appointments after age 70.
3323. Automatic separations; reappointment; reemployment of annuitants.
3324. Appointments at GS-16, 17, and 18.
3325. Appointments to scientific and professional positions.
3326. Appointments of retired members of the armed forces to positions in the Department of Defense.
[3327. Repealed.]

SUBCHAPTER II—OATH OF OFFICE

3331. Oath of office.
3332. Officer affidavit; no consideration paid for appointment.
3333. Employee affidavit; loyalty and striking against the Government.

SUBCHAPTER III—DETAILS

3341. Details; within Executive or military departments.
[3342. Repealed.]
3343. Details; to international organizations.
3344. Details; hearing examiners.
3345. Details; to office of head of Executive or military department.
3346. Details; to subordinate offices.
3347. Details; Presidential authority.
3348. Details; limited in time.
3349. Details; to fill vacancies; restrictions.

SUBCHAPTER IV—TRANSFERS

3351. Preference eligibles; transfer; physical qualifications; waiver.

SUBCHAPTER V—PROMOTION

3361. Promotion; competitive service; examination.
3362. Promotion; effect of incentive award.
3363. Preference eligibles; promotion; physical qualifications; waiver.
[3364. Repealed.]

SUBCHAPTER VI—ASSIGNMENTS TO AND FROM STATES

3371. Definitions.
3372. General provisions.
3373. Assignments of employees to State or local governments.[2]
3374. Assignments of employees from State or local governments.
3375. Travel expenses.
3376. Regulations.

---

[1] Section was repealed but analysis was not amended to reflect repeal.

[2] Analysis does not conform to section catchline.

SUBCHAPTER VII—AIR TRAFFIC CONTROLLERS

Sec.
3381. Training.
3382. Involuntary separation for retirement.
3383. Determinations; review procedures.
3384. Regulations.
3385. Effect on other authority.

AMENDMENTS

1975—Pub. L. 94-183, § 2(7), Dec. 31, 1975, 89 Stat. 1057, struck out item 3364 "Promotion; substitute employees in the postal field service".

1972—Pub. L. 92-297, §§ 2(b), 3(b) May 16, 1972, 86 Stat. 142, 144, substituted "maximum age entrance requirements, exceptions" for "maximum age requirement; restriction on use of appropriated funds" in item 3307, and added subchapter VII and items 3381 to 3385.

1971—Pub. L. 91-648, title IV, § 402(b), Jan. 5, 1971, 84 Stat. 1925, added Subchapter VI and items 3371-3376.

1970—Pub. L. 91-375, § 6(c)(7)(B), Aug. 12, 1970, 84 Stat. 776, struck out item 3327.

1967—Pub. L. 90-105, § 1(b), Oct. 11, 1967, 81 Stat. 273, added item 3304a.

Pub. L. 90-83, § 1(9)(B), Sept. 11, 1967, 81 Stat. 197, added item 3315a.

1966—Pub. L. 89-762, § 1(b), Nov. 5, 1966, 80 Stat. 1312, struck out item 3342.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 42 section 5404.

SUBCHAPTER I—EXAMINATION, CERTIFICATION, AND APPOINTMENT

§ 3301. Civil service; generally

The President may—

(1) prescribe such regulations for the admission of individuals into the civil service in the executive branch as will best promote the efficiency of that service;

(2) ascertain the fitness of applicants as to age, health, character, knowledge, and ability for the employment sought; and

(3) appoint and prescribe the duties of individuals to make inquiries for the purpose of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 417.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 631 (less last 16 words).	R.S. § 1753 (less last 16 words).

The words "civil service in the executive branch" are substituted for "civil service of the United States" to confirm the grant of authority in view of the definition of "civil service" in section 2101. The word "will" is substituted for "may". The words "for the employment sought" are substituted for "for the branch of service into which he seeks to enter" as the latter are archaic since there are no "branches" within the executive branch. The word "applicant" is substituted for "candidate".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

DELEGATION OF AUTHORITY

Authority of the President to establish regulations for the conduct of persons in the civil service under this section delegated to the Civil Service Commission, see section 601 of Ex. Ord. No. 11222, May 8, 1965, 30 F.R. 6469, set out as a note under section 201 of Title 18, Crimes and Criminal Procedure.

DELEGATION OF FUNCTIONS

For delegation to the United States Civil Service Commission of various functions vested in the President, see Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

EX. ORD. NO. 8743. EXTENDING THE CLASSIFIED CIVIL SERVICE

Ex. Ord. No. 8743, Apr. 23, 1941, as amended by Ex. Ord. No. 9230, Aug. 20, 1942; Ex. Ord. No. 9678, Jan. 14, 1946, and Ex. Ord. No. 9712, Apr. 13, 1946, provided:

By virtue of the authority vested in me by section 1 of the act of November 26, 1940, entitled "Extending the Classified Executive Civil Service of the United States" (54 Stat. 1211), by the Civil Service Act (22 Stat. 403), and by section 1753 of the Revised Statutes of the United States [now this section and section 7301 of this title], it is hereby ordered as follows:

SECTION 1. All offices and positions in the executive civil service of the United States except (1) those that are temporary, (2) those expressly excepted from the provisions of section 1 of the said act of November 26, 1940, (3) those excepted from the classified service under Schedules A and B of the Civil Service Rules, and (4) those which now have a classified status, are hereby covered into the classified civil service of the Government.

SECTION 2. Section 1 of this order shall become effective on January 1, 1942, except that as to positions affected thereby which are vacant at any time after June 30, 1941, and before January 1, 1942, it shall become effective when the vacancies first exist during such period, and appointments to such vacant positions shall be made in accordance with the Civil Service Rules as amended by section 3 of this order, unless prior express permission is given by the Civil Service Commission for appointment without regard thereto.

SECTION 3. (a) Upon consideration of the report of the Committee on Civil Service Improvement (House Document No. 118, 77th Congress) appointed by Executive Order No. 8044 of January 31, 1939, it is hereby found and determined that the regulations and procedures hereinafter prescribed in this section with respect to attorney positions in the classified civil service are required by the conditions of good administration.

(b) There is hereby created in the Civil Service Commission (hereinafter referred to as the Commission) a board to be known as the Board of Legal Examiners (hereinafter referred to as the Board). The Board shall consist of the Solicitor General of the United States and the chief law officer of the Civil Service Commission, as members *ex officio*, and nine members to be appointed by the President, four of whom shall be attorneys chosen from the chief officers of the Executive departments, agencies or corporate instrumentalities of the Government, two from the law-teaching profession, and three from attorneys engaged in private practice. The President shall designate the chairman of the Board. Five members shall constitute a quorum, and the Board may transact business notwithstanding vacancies thereon. Members of the Board shall receive no salary as such, but shall be entitled to necessary expenses incurred in the performance of their duties hereunder.

(c) It shall be the duty of the Board to promote the development of a merit system for the recruitment, selection, appointment, promotion, and transfer of attorneys in the classified civil service in accordance with the general procedures outlined in Plan A of the report of the Committee on Civil Service Improvement, appointed by Executive Order No. 8044 of January 31, 1939.

(d) The Board, in consultation with the Commission, shall determine the regulations and procedures under this section governing the recruitment and examination of applicants for attorney positions, and the selection, appointment, promotion and transfer of attorneys, in the classified service.

(e) The Commission shall in the manner determined by the Board establish a register or registers for attorney positions in the classified service and such positions shall thereafter be filled from such registers as are designated by the Board. Unless otherwise determined by the Board, any register so established shall not be in effect for a period longer than one year from the date of its establishment. Upon request of the Board, the Commission shall appoint regional or local boards of examiners composed of persons approved by the Board, within or without the Federal service, to interview and examine applicants as the Board shall direct.

(f) The number of names to be placed upon any register of eligibles for attorney positions shall be limited to the number recommended by the Board; and such registers shall not be ranked according to the ratings received by the eligibles, except that persons entitled to veterans' preference as defined in section 1 of Civil Service Rule VI shall be appropriately designated thereon.

(g) Any person whose name has been placed upon three registers of eligibles covering positions of the same grade, and who has not been appointed therefrom, shall not thereafter be eligible for placement upon any subsequently established register covering positions of such grade.

(h) So far as practicable and consistent with good administration, the eligibles on any register for attorney positions and appointments for such register shall be apportioned among the several States and Territories and the District of Columbia upon the basis of population as ascertained in the last preceding census. The Commission shall certify to the appointing officer for each vacancy all the eligibles on the appropriate register except those whose appointment would, in the determination of the Board, be inconsistent with the apportionment policy herein prescribed. The appointing officer shall make selections for any vacancy or vacancies in attorney positions from the register so certified, with sole reference to merit and fitness.

(i) Any position affected by this section may be filled before appropriate registers have been established pursuant to this section only by a person whose appointment is approved by the Board. The Board may require as a condition of its approval that persons thus proposed for appointment pass a noncompetitive examination and may designate examining committees composed of persons within or without the Federal service to conduct such examinations. Persons whose appointment was approved by the Board prior to March 16, 1942, and who pass a noncompetitive examination prescribed by the Board shall be eligible for a classified civil-service status after the expiration of six months from the date of appointment upon compliance with the provisions of Section 6 of Civil Service Rule II other than those provisions relating to examination. Effective March 16, 1942, all appointments to attorney and law clerk (trainee) positions shall be for the duration of the present war and for six months thereafter unless specifically limited to a shorter period.

(j) The incumbent of any attorney position covered into the classified service by section 1 of this order may acquire a classified civil-service status in accordance with the provisions of Section 2 (a) of the act of November 26, 1940 (54 Stat. 1211) or, in the discretion of the Board and when applicable, Section 6, of Civil Service Rule II: *Provided,* That the noncompetitive examination required thereunder shall be prescribed by the Commission with the approval of the Board.

(k) The Commission with the approval of the Board shall appoint a competent person to act as Executive Secretary to the Board; and the Commission shall furnish such further professionals, clerical, stenographic, and other assistants as may be necessary to carry out the provisions of this section.

(*l*) The Civil Service Rules are hereby amended to the extent necessary to give effect to the provisions of this section.

Section 4. The noncompetitive examinations prescribed pursuant to sections 3 and 6 of this order and section 2 (a) of the said act of November 26, 1940, shall, among other things, require any person taking such examination to meet such reasonable standards of physical fitness and personal suitability as the Civil Service Commission may prescribe.

Section 5. Persons who on the effective date of section 1 of this order are on furlough or leave without pay from any position covered into the classified service by that section may be recalled to duty within one year of the date that they are furloughed or given leave without pay, and may be continued in such positions thereafter but shall not thereby acquire a classified civil-service status. If they are not recalled to duty within the time specified herein, they shall be separated from the service.

Section 6. (a) Any person who, in order to perform active service with the military or naval forces of the United States, has left a position (other than a temporary position) which is covered into the classified civil service under section 1 of this order, shall be reinstated in such position or to a position of like seniority, status, and pay in the same department or agency, and may, upon reinstatement, acquire a classified civil-service status: *Provided,* (1) that he has been honorably discharged from the military or naval service, (2) that he makes application for reinstatement within 90 days after termination of his service with the armed forces or of hospitalization continuing after discharge for a period of not more than one year, and (3) that he qualifies in such suitable noncompetitive examination as the Commission may prescribe.

(b) Any person who, in order to perform active service with the military or naval forces of the United States, has left a position in any department or agency (other than a temporary position) which is covered into the classified civil service under section 1 of this order, may, upon his applications and upon the request of the head of the same or any other department or agency, be reinstated in any position for which the Commission finds he is qualified, and upon reinstatement shall acquire a classified civil-service status: *Provided,* (1) that he has been honorably discharged from the military or naval service, and (2) that he qualifies in such suitable noncompetitive examination as the Commission may prescribe.

Section 7. Executive Order No. 8044 of January 31, 1939, is hereby revoked so far as it applies to positions covered into the classified civil service by this order.

Franklin D. Roosevelt.

Executive Order No. 9367

Ex. Ord. No. 9367, Aug. 4, 1943, 8 F.R. 11017, which prohibited, with certain exceptions, instructions of applicants for civil service and foreign service examinations by officers or employees of the government, was revoked by Ex. Ord. No. 11408, Apr. 25, 1968, 33 F.R. 6459.

Ex. Ord. No. 10577. Civil Service Rules

Ex. Ord. No. 10577, Nov. 22, 1954, 19 F.R. 7521, eff. Jan. 23, 1955, as amended by Ex. Ord. No. 10641, Oct. 26, 1955, 20 F.R. 8137; Ex. Ord. No. 10675, Aug. 21, 1956, 21 F.R. 6327 eff. Jan. 23, 1956; Ex. Ord. No. 10745, Dec. 12, 1957, 22 F.R. 10025; Ex. Ord. No. 10869, Mar. 9, 1960, 25 F.R. 2073; Ex. Ord. No. 11315, Nov. 17, 1966, 31 F.R. 14729; Ex. Ord. No. 11839, Feb. 15, 1975, 40 F.R. 7351; Ex. Ord. No. 11856, May 7, 1975, 40 F.R. 20259; Ex. Ord. No. 11887, Nov. 4, 1975, 40 F.R. 51411; Ex. Ord. No. 11935, Sept. 2, 1976, 41 F.R. 37301, provided:

PART I—CIVIL SERVICE RULES

Section 101. The Civil Service Rules are hereby amended to read as follows:

RULE I—COVERAGE AND DEFINITIONS

§ 1.1. POSITIONS AND EMPLOYEES AFFECTED BY THESE RULES

These Rules shall apply to all positions in the competitive service and to all incumbents of such positions. Except as expressly provided in the Rule concerned, these Rules shall not apply to positions and employees in the excepted service.

§ 1.2. EXTENT OF THE COMPETITIVE SERVICE

The competitive service shall include: (a) All civilian positions in the executive branch of the Government unless specifically excepted therefrom by or pursuant to statute or by the Civil Service Commission (hereafter referred to in these Rules as the Commission) under section 6.1 of Rule VI; and (b) all positions in the legislative and judicial branches of the Federal Government and in the Government of the District of Columbia which are specifically made subject to the civil-service laws by statute. The Commission is authorized and directed to determine finally whether a position is in the competitive service.

§ 1.3. DEFINITIONS

As used in these Rules:

(a) "Competitive service" shall have the same meaning as the words "classified service", or "classified (competitive) service", or "classified civil service" as defined in existing statutes and executive orders.

(b) "Competitive position" shall mean a position in the competitive service.

(c) "Competitive status" shall mean basic eligibility to be noncompetitively selected to fill a vacancy in a competitive position. A competitive status shall be acquired by career-conditional or career appointment through open competitive examination upon satisfactory completion of a probationary period, or may be granted by statute, executive order, or the Civil Service Rules without competitive examination. A person with competitive status may be promoted, transferred, reassigned, reinstated, or demoted without taking an open competitive examination, subject to the conditions prescribed by the Civil Service Rules and Regulations.

(d) An employee shall be considered as being in the competitive service when he has a competitive status and occupies a competitive position unless he is serving under a temporary appointment: *Provided,* That an employee who is in the competitive service at the time his position is first listed under Schedule A, B, or C shall be considered as continuing in the competitive service as long as he continues to occupy such position.

(e) "Tenure" shall mean the period of time an employee may reasonably expect to serve under his current appointment. Tenure shall be granted and governed by the type of appointment under which an employee is currently serving without regard to whether he has a competitive status or whether his appointment is to a competitive position or an excepted position.

§ 1.4. EXTENT OF THE EXCEPTED SERVICE

(a) The excepted service shall include all civilian positions in the executive branch of the Government which are specifically excepted from the requirements of the Civil Service Act or from the competitive service by or pursuant to statute or by the Commission under section 6.1 of Rule VI.

(b) "Excepted service" shall have the same meaning as the words "unclassified service", or "unclassified civil service", or "positions outside the competitive civil service" as used in existing statutes and executive orders.

(c) "Excepted position" shall have the same meaning as "unclassified position", or "position excepted by law", or "position excepted by executive order", or "position excepted by Civil Service Rule", or "position outside the competitive service" as used in existing statutes and executive orders.

RULE II—APPOINTMENT THROUGH THE COMPETITIVE SYSTEM

§ 2.1. COMPETITIVE EXAMINATIONS AND ELIGIBLE REGISTERS

(a) The Commission shall be responsible for open competitive examinations for admission to the competitive service which will fairly test the relative capacity and fitness of the persons examined for the position to be filled. The Commission is authorized to establish standards with respect to citizenship, age, education, training and experience, suitability, and physical and mental fitness, and for residence or other requirements which applicants must meet to be admitted to or rated in examinations.

(b) In addition to the names of persons who qualify in competitive examinations, the names of persons who have lost eligibility on a career or career-conditional register because of service in the armed forces, and the names of persons who lost opportunity for certification or who have served under career or career-conditional appointment when the Commission determines that they should be given certification, may also be entered at such places on appropriate registers and under such conditions as the Commission may prescribe.

(c) Whenever the Civil Service Commission (1) is unable to certify a sufficient number of names to permit the appointing officer to consider three eligibles for appointment to a fourth-class postmaster position in accordance with the regular procedure, or (2) finds that a particular rate of compensation for fourth-class postmaster positions is too low to warrant regular competitive examinations for such positions, it may authorize appointment to any such position or positions in accordance with such procedure as may be prescribed by the Commission. Persons appointed under this subsection may acquire competitive status subject to satisfactory completion of a probationary period prescribed by the Commission.

§ 2.2. APPOINTMENTS

(a) The Commission shall establish and administer a career-conditional appointment system for positions subject to competitive examination which will permit adjustment of the career service to necessary fluctuations in Federal employment, and provide an equitable and orderly system for stabilizing the Federal work force. A competitive status shall be acquired by a career-conditional appointee upon satisfactory completion of a probationary period, but the appointee shall have career-conditional tenure for a period of service to be prescribed by regulation of the Commission. When an employee has completed the required period of service his appointment shall be converted to a career appointment without time limitation: *Provided,* That his career-conditional appointment shall not be converted to a career appointment if the limitation on the number of permanent employees in the Federal civil service established under subsection (b) of this section would be exceeded thereby. Persons selected from competitive civil service registers for other than temporary appointment shall be given career-conditional appointments: *Provided,* That career appointments shall be given to the following classes of eligibles: (1) Persons whose appointments are required by statute to be made on a permanent basis; (2) employees serving under career appointments at the time of selections from such registers; (3) former employees who have eligibility for career appointments upon reinstatement; and (4) to the extent permitted by law, persons appointed to positions in the field service of the Post Office Department for which salary rates are fixed by the act of July 6, 1945, 59 Stat. 435 [chapter 23 of title 39], as heretofore or hereafter amended and supplemented.

(b) Under the career-conditional appointment system there shall be a limit on the number of permanent employees in the Federal civil service which shall be the ceiling established by section 1310 of the Supplemental Appropriation Act, 1952 (65 Stat. 757), as amended [set out as a note under section 3101 of this title]. In the event section 1310, supra, is repealed, the Commission is authorized to fix such limitation on the number of permanent employees in the Federal civil service as it finds necessary to meet the needs of the service.

(c) The Commission may determine the types, duration, and conditions of indefinite and temporary appointments, and may prescribe the method for replacing persons holding such appointments.

§ 2.3. Apportionment

Subject to such modifications as the Commission finds to be necessary in the interest of good administration, appointments to positions in agencies' headquarters offices which are located within the metropolitan area of Washington, D.C., shall be made so as to maintain the apportionment of appointments among the several States, Territories, and the District of Columbia upon the basis of population.

§ 2.4. Probationary Period

Persons selected from registers of eligibles for career or career-conditional appointment shall be required to serve a probationary period under such terms and conditions as the Commission may prescribe.

Rule III—Noncompetitive Acquisition of Status

§ 3.1. Classes of Persons Who May Noncompetitively Acquire Status

(a) Upon recommendation by the agency concerned, and subject to such noncompetitive examination, time limits, or other requirements as the Commission may prescribe, the following classes of persons may acquire a competitive status without competitive examination:

(1) A person holding a permanent position when it is placed in the competitive service by statute or executive order or is otherwise made subject to competitive examination.

(2) A disabled veteran who, in a manner satisfactory to the Commission, has completed a course of training in the executive branch of the Government prescribed by the Administrator of Veterans' Affairs in accordance with the act of March 24, 1943, 57 Stat. 43.

(3) An employee who has served at least two years in the immediate office of the President or on the White House Staff and who is transferred to a competitive position at the request of an agency.

(4) An employee who was serving when his name was reached for certification on a civil-service register appropriate for the position in which he was serving: *Provided,* That the recommendation for competitive status is made prior to expiration of the register on which his name appears or is made during a period of continuous service since his name was reached: *Provided further,* That the register was being used for appointments conferring competitive status at the time his name was reached.

§ 3.2. Appointments Without Competitive Examination in Rare Cases

Subject to receipt of satisfactory evidence of the qualifications of the person to be appointed, the Commission may authorize an appointment in the competitive service without competitive examination whenever it finds that the duties or compensation of the position are such, or that qualified persons are so rare, that, in the interest of good civil-service administration, the position cannot be filled through open competitive examination. Any person heretofore or hereafter appointed under this section shall acquire a competitive status upon completion of at least one year of satisfactory service and compliance with such requirements as the Commission may prescribe. Detailed statements of the reasons for the noncompetitive appointments made under this section shall be published in the Commission's annual reports.

§ 3.3. Conversion of Appointments

Any person who acquires a competitive status under this Rule shall have his appointment converted to career-conditional appointment unless he meets the service requirement for career appointment prescribed under section 2.2 (a) of Rule II.

Rule IV—Prohibited Practices

§ 4.1. Prohibition Against Political Activity

No person employed in the executive branch of the Federal Government, or any agency or department thereof, shall use his official authority or influence for the purpose of interfering with an election or affecting the result thereof. No person occupying a position in the competitive service shall take any active part in political management or in political campaigns, except as may be provided by or pursuant to statute. All such persons shall retain the right to vote as they may choose and to express their opinions on all political subjects and candidates.

§ 4.2. Prohibition Against Racial, Political or Religious Discrimination

No person employed in the executive branch of the Federal Government who has authority to take or recommend any personnel action with respect to any person who is an employee in the competitive service or any eligible or applicant for a position in the competitive service shall make any inquiry concerning the race, political affiliation or religious beliefs of any such employee, eligible, or applicant. All disclosures concerning such matters shall be ignored, except as to such membership in political parties or organizations as constitutes by law a disqualification for Government employment. No discrimination shall be exercised, threatened, or promised by any person in the executive branch of the Federal Government against or in favor of any employee in the competitive service, or any eligible or applicant for a position in the competitive service because of his race, political affiliation or religious beliefs, except as may be authorized or required by law.

§ 4.3. Prohibition Against Securing Withdrawal From Competition

No person shall influence another person to withdraw from competition for any position in the competitive service for the purpose of either improving or injuring the prospects of any applicant for appointment. The Commission is authorized to take such disciplinary action as it deems appropriate whenever it finds that any person has violated this section.

Rule V—Regulations, Investigation, and Enforcement

§ 5.1. Regulations

(a) The Commission is authorized and directed to promulgate and enforce such regulations as may be necessary to carry out the provisions of the Civil Service Act and Rules, the Veterans' Preference Act [now covered by this chapter and chapter 35 of this title], and all other applicable statutes or executive orders imposing responsibilities on the Commission.

(b) The Commission is authorized, whenever there shall be practical difficulties and unnecessary hardships in complying with the strict letter of its regulations, to grant a variation from the strict letter of the regulations if such variation is within the spirit of the regulations, and the efficiency of the Government and the integrity of the competitive service are protected and promoted. *Provided,* That whenever such a variation is granted the Commission shall record in the minutes of its proceedings (1) the particular practical difficulty or hardship involved, (2) what is permitted in lieu of what is required by regulation, (3) the circumstances which protect or promote the efficiency of the Government and the integrity of the competitive service, and (4) a statement limiting the application of the variation to the continuation of the conditions which gave rise to the variation: *Provided further,* That similar variations shall be granted whenever similar conditions exist. All minutes approved under authority of this section shall be published in the Commission's annual reports.

§ 5.2. AUTHORITY OF THE COMMISSION TO MAKE INVESTIGATIONS

The Commission may make appropriate investigations to secure enforcement of the Civil Service Act, Rules, and Regulations, including investigation of the qualifications and suitability of applicants for positions in the competitive service. It may require appointments to be made subject to investigation to enable the Commission to determine, after appointment, that the requirements of law or the Civil Service Rules and Regulations have been met. Whenever the Commission finds that an employee serving under such an appointment is disqualified for Federal employment, it may instruct the agency to remove him, or to suspend him pending an appeal from the Commission's finding: *Provided,* That when an agency removes or suspends an employee pursuant to the Commission's instructions, and the Commission, on the basis of new evidence or on appeal, subsequently reverses the initial decision as to the employee's qualifications and suitability, the agency shall, upon request of the Commission, restore the employee to duty.

§ 5.3. OFFICERS AND EMPLOYEES TO FURNISH TESTIMONY

All officers and employees in the executive branch, and applicants or eligibles for positions therein, shall give to the Commission or its authorized representatives all information and testimony in regard to matters inquired of arising under the laws, rules, and regulations administered by the Commission. Whenever required by the Commission, such persons shall subscribe such testimony and make oath or affirmation thereto before an officer authorized by law to administer oaths.

§ 5.4. ENFORCEMENT AUTHORITY OF THE COMMISSION

(a) Whenever the Commission finds that any person has been appointed to or is holding a position in violation of the Civil Service Act, Rules or Regulations, or that any officer or employee in the executive branch has violated this order or any of the laws, rules or regulations administered by the Commission, it is authorized, after giving due notice and opportunity for explanation to the officer or employee and the agency concerned, to certify the facts to the proper appointing officer with specific instructions as to discipline or dismissal or other corrective action.

(b) Whenever the Commission finds that any officer or employee in the executive branch has failed to adhere to established policies, regulations, and standards relating to personnel management subject to the jurisdiction of the Commission, it shall instruct the agency head to take corrective action.

(c) Whenever, on the basis of an appeal by an employee, the Commission finds that its regulations prescribing procedures to be followed by agencies in connection with adverse actions for disciplinary reasons have not been followed, or that adverse action has been taken for political reasons except as may be required by law, or resulted from discrimination because of marital status, it shall instruct the agency to restore the employee to duty.

(d) Whenever the Commission issues specific instructions as to discipline or dismissal of an officer or employee, or to restore an officer or employee to duty, the appointing officer concerned shall comply with the Commission's instructions.

(e) If the appointing officer fails to carry out the instructions of the Commission issued under section 4(a) of this Rule, the Commission shall certify the facts to the head of the agency concerned. If the head of the agency fails to carry out the instructions of the Commission within ten days after receipt thereof, the Commission shall certify the facts to the Comptroller General of the United States, and shall furnish a copy of such certification to the head of the agency concerned; and thereafter no payment shall be made of the salary or wages accruing to the employee concerned.

RULE VI—EXCEPTIONS FROM THE COMPETITIVE SERVICE

§ 6.1. AUTHORITY TO EXCEPT POSITIONS FROM THE COMPETITIVE SERVICE

(a) The Commission may except positions from the competitive service when it determines that appointments thereto through competitive examination are not practicable. These positions shall be listed in the Commission's annual report for the fiscal year in which the exceptions are made.

(b) The Commission shall decide whether the duties of any particular position are such that it may be filled as an excepted position under the appropriate schedule.

§ 6.2. SCHEDULES OF EXCEPTED POSITIONS

The Commission shall list positions that it excepts from the competitive service in Schedules A, B, and C, which schedules shall constitute parts of this Rule, as follows:

SCHEDULE A

Positions other than those of a confidential or policy- determining character for which it is not practicable to examine shall be listed in Schedule A.

SCHEDULE B

Positions other than those of a confidential or policy-determining character for which it is not practicable to hold a competitive examination shall be listed in Schedule B. Appointments to these positions shall be subject to such noncompetitive examinations as may be prescribed by the Commission.

SCHEDULE C

Positions of a confidential or policy-determining character shall be listed in Schedule C.

§ 6.3. METHOD OF FILLING EXCEPTED POSITIONS AND STATUS OF INCUMBENTS

(a) The head of an agency may fill excepted positions by the appointment of persons without civil service eligibility or competitive status and such persons shall not acquire competitive status by reason of such appointment: *Provided,* That the Commission, in its discretion, may by regulation prescribe conditions under which excepted positions may be filled in the same manner as competitive positions are filled and conditions under which persons so appointed may acquire a competitive status in accordance with the Civil Service Rules and Regulations.

(b) To the extent permitted by law and the provisions of this Rule, appointments and position changes in the excepted service shall be made in accordance with such regulations and practices as the head of the agency concerned finds necessary.

§ 6.4. REMOVAL OF INCUMBENTS OF EXCEPTED POSITIONS

Except as may be required by statute, the Civil Service Rules and Regulations shall not apply to removals from positions listed in Schedules A and C or from positions excepted from the competitive service by statute. The Civil Service Rules and Regulations shall apply to removals from positions listed in Schedule B of persons who have competitive status.

§ 6.5. ASSIGNMENT OF EXCEPTED EMPLOYEES

No person who is serving under an excepted appointment shall be assigned to the work of a position in the competitive service without prior approval of the Commission.

§ 6.6. REVOCATION OF EXCEPTIONS

The Commission may remove any position from or may revoke in whole or in part any provision of Schedule A, B, or C. These changes are effective upon publication in the FEDERAL REGISTER.

§ 6.7. MOVEMENT OF PERSONS BETWEEN THE CIVIL-SERVICE SYSTEM AND OTHER MERIT SYSTEMS

Whenever the Commission and any Federal agency having an established merit system determine it to be in the interest of good administration and consistent with the intent of the civil-service laws and any other applicable laws, they may enter into an agreement prescribing conditions under which persons may be moved from one system to the other and defining the status and tenure that the persons affected shall acquire upon such movement.

§ 6.8. SPECIFIED EXCEPTIONS

Positions in the Department of the Interior and in the Department of Commerce whose incumbents serve as the principal representative of the Secretary in their respective regions shall be listed in Schedule C for grades not exceeding grade GS-15 of the General Schedule, and shall be designated Noncareer Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on February 15, 1975, in the competitive service shall not be affected by the foregoing provisions of this Section.

RULE VII—GENERAL PROVISIONS

§ 7.1. DISCRETION IN FILLING VACANCIES

In his discretion, an appointing officer may fill any position in the competitive service either by competitive appointment from a civil-service register or by noncompetitive selection of a present or former Federal employee, in accordance with the Civil Service Regulations. He shall exercise his discretion in all personnel actions solely on the basis of merit and fitness and without regard to political or religious affiliations, marital status, or race.

§ 7.2. PERSONNEL REPORTS

Each agency shall report to the Commission, in such manner and at such times as the Commission may prescribe, such personnel information as it may request relating to positions and officers and employees in the competitive service and in the excepted service, whether permanent or career, career-conditional, indefinite, temporary, emergency, or subject to contract.

§ 7.3. REEMPLOYMENT RIGHTS

The Commission, whenever it determines it to be necessary, shall prescribe regulations governing the release of employees (both within the competitive service and the excepted service) by any agency in the executive branch of the Government for employment in any other agency, and governing the establishment, granting, and exercise of rights to reemployment in the agencies from which employees are released.

§ 7.4. CITIZENSHIP

(a) No person shall be admitted to competitive examination unless such person is a citizen or national of the United States.

(b) No person shall be given any appointment in the competitive service unless such person is a citizen or national of the United States.

(c) The Commission may, as an exception to this rule and to the extent permitted by law, authorize the appointment of aliens to positions in the competitive service when necessary to promote the efficiency of the service in specific cases or for temporary appointments.

RULE VIII—APPOINTMENTS TO OVERSEAS POSITIONS

§ 8.1. ADDITIONAL AUTHORITY OF THE COMMISSION

In addition to authorizing the recruitment and appointment of persons to overseas positions under regulations issued under the preceding Rules, the Commission may, by the regulations prescribed by it, authorize the recruitment and appointment of persons to such positions as provided in section 2 of this Rule. As used in this Rule, "overseas positions" means positions in foreign countries and in other areas beyond the continental limits of the United States, except as provided in section 8.4 hereof.

§ 8.2. APPOINTMENT OF UNITED STATES CITIZENS

United States citizens may be recruited overseas for appointment to overseas positions in the competitive service without regard to the competitive requirements of the Civil Service Act. Persons so recruited who meet the qualification standards and other requirements of the Commission for overseas positions may be given appointments to be known as "overseas limited appointments." Such appointments shall be of temporary or indefinite duration, and shall not confer the right to acquire a competitive status. The Commission may authorize overseas limited appointments for United States citizens recruited within the continental limits of the United States whenever it determines that it is not feasible to appoint from a civil-service register. Persons serving under appointments made pursuant to this section are hereby excluded from the operation of the Civil Service Retirement Act of May 29, 1930, as amended [now covered by section 8301 et seq. of this title], unless eligible for retirement benefits by continuity of service or otherwise.

§ 8.3. APPOINTMENT OF PERSONS NOT CITIZENS OF THE UNITED STATES

Persons who are not citizens of the United States may be recruited overseas and appointed to overseas positions without regard to the Civil Service Act.

§ 8.4. POSITIONS EXCEPTED FROM THE APPLICATION OF THIS RULE

This Rule shall not apply to positions in Hawaii, Puerto Rico, the Virgin Islands, and Alaska, and on the Isthmus of Panama.

RULE IX—EXECUTIVE, ASSIGNMENT SYSTEM FOR POSITIONS IN GRADES GS-16, 17, AND 18 OF THE GENERAL SCHEDULE

In General

SECTION 9.1 COVERAGE. Except as otherwise provided by law, this Rule applies to:

(a) positions in grades 16, 17, and 18 of the General Schedule that are in the Executive Branch, except positions excluded from the coverage of 5 U.S.C. 3324(a) by paragraphs (1), (2), and (4) thereof and any position now or hereafter excepted under Civil Service Rule VI so long as that exception remains in effect; and

(b) persons who are given executive assignments to these positions.

SEC. 9.2 FILLING POSITIONS COVERED BY THIS RULE. An appointing officer shall fill a position covered by this Rule of Career Executive Assignment, unless the Commission authorizes a Limited Executive Assignment under section 9.6 of this Rule or a Noncareer Executive Assignment under section 9.20 of this Rule.

Career Executive Assignments

SEC. 9.3 QUALIFICATIONS REQUIRED FOR A CAREER EXECUTIVE ASSIGNMENT. After appropriate consultation with the agency concerned the Commission shall establish specific qualification standards for assignment to a Career Executive Assignment.

SEC. 9.4 RECRUITMENT FOR CAREER EXECUTIVE ASSIGNMENTS. (a) Before selecting any person for a Career Executive Assignment the appointing officer shall first consider fully employees under his agency's merit promotion program and available employees of other Federal agencies qualified pursuant to paragraph (b) of this section. Only after this consideration may the appointing officer elect to recruit applicants from outside the Federal service pursuant to paragraph (b) of this section.

(b) The Commission shall be responsible for the establishment of special facilities, including special boards and panels, to recruit well-qualified persons for Career Executive Assignments in the Federal service from among employees holding Career Executive Assignments, other eligible employees, and persons outside the Federal service. The appointing officer shall use these special facilities, including special boards and panels, to recruit applicants from outside the Federal service.

The procedures in this section do not apply when the Commission authorizes the movement of an incumbent Career Executive to a Career Executive Assignment at the same or lower grade.

SEC. 9.5 CAREER EXECUTIVE ASSIGNMENTS, SELECTION AND ASSIGNMENT. (a) An appointing officer shall select a person for a Career Executive Assignment solely on the basis of merit and fitness. He shall not permit or consider any political test, qualification, clearance, or recommendation, and shall not discriminate on the basis of race, religion, national origin, sex, age, or physical disability.

(b) The appointing officer may make a Career Executive Assignment only after the Commission has finally approved the qualifications and suitability of the person selected.

SEC. 9.6 AUTHORIZATION OF LIMITED EXECUTIVE ASSIGNMENTS. (a) The Commission may authorize agencies to fill a position covered by this Rule by a Limited Executive Assignment when:

(1) the position is expected to be of limited duration; or

(2) the agency concerned establishes an unusual need for urgent staffing that cannot adequately be met under the procedures required for Career Executive Assignments.

(b) The Commission shall specify a time limit within which an agency may use this authority and may revoke this authority at anytime.

SEC. 9.7 QUALIFICATIONS REQUIRED FOR A LIMITED EXECUTIVE ASSIGNMENT. After appropriate consultation with the agency concerned the Commission shall establish specific qualification standards for assignment to a Limited Executive Assignment.

SEC. 9.8 LIMITED EXECUTIVE ASSIGNMENT; SELECTIONS AND ASSIGNMENT. An appointing officer may make a Limited Executive Assignment only after the Commission has finally approved the qualifications of the person selected.

SEC. 9.9 REMOVAL FROM A LIMITED EXECUTIVE ASSIGNMENT. An appointing officer may remove a person from a Limited Executive Assignment when, in his judgment, the purpose of the assignment has been served or conditions warrant discontinuance of the assignment.

SEC. 9.10 LIMITED EXECUTIVE ASSIGNMENT; CHANGE TO OTHER TYPE OF APPOINTMENT. If a person completes five years of continuous service in an agency in a Limited Executive Assignment the appointing officer shall:

(a) convert his assignment to a Career Executive Assignment, or to a Noncareer Executive Assignment;

(b) give him a career appointment to a continuing position in the competitive service in grade GS-15, or below, or

(c) separate him from the service.

SEC. 9.11. SPECIFIED NONCAREER EXECUTIVE ASSIGNMENTS. The regional director, regional administrator, or the Secretary's principal regional representative positions in the Department of Health, Education, and Welfare, Housing and Urban Development, Transportation and Labor, and those positions in the Environmental Protection Agency and the Small Business Administration shall be designated Noncareer Executive Assignments; and, the Limited Executive Assignments of any incumbents of these positions on February 15, 1975, are converted to Noncareer Executive Assignments. Incumbents of these positions serving in Career Executive Assignments on February 15, 1975, shall not be affected by the foregoing provisions of this Section.

Noncareer Executive Assignments

SEC. 9.20 EXCEPTION OF POSITIONS TO BE FILLED BY NONCAREER EXECUTIVE ASSIGNMENTS. (a) After consulting the agency concerned, the Commission may except a position from the procedures required for making Career Executive Assignments and authorize an agency to fill the position by a Noncareer Executive Assignment when it determines that there is a need for filling the position by a person who will:

(1) be deeply involved in the advocacy of Administration programs and support of their controversial aspects;

(2) participate significantly in the determination of major political policies of the Administration; or

(3) serve principally as personal assistant to or adviser of a Presidential appointee or other key political figure.

(b) In determining the positions to be excepted under paragraph (a) of this section the Commission shall:

(1) limit the number of positions excepted to a relatively small proportion of the positions in the agency in grades 16, 17, and 18, taking into consideration the size of the agency and the nature of its program; and

(2) define the area of the agency's activity in which Noncareer Executive Assignments would be appropriate and specify organizational levels, as distinguished from grade levels, below which Noncareer Executive Assignments would be inappropriate.

(c) The Commission shall not except a position which has as its principal responsibility the internal management of an agency, or a position involving long-standing recognized professional duties and responsibilities resting on a body of knowledge essentially politically neutral in nature. However, a position concerned with the direction of a scientific program could be appropriately excepted when it meets the criteria set forth in paragraph (a)(1), (2), or (3) of this section.

(d) The Commission shall review periodically the exceptions made under this section and after consulting the agency concerned, shall revoke an exception when the position no longer meets the criteria for exception. Civil Service Rule III, providing for the noncompetitive acquisition of competitive status, shall not apply in such a case.

(e) Notice of the Commission's decision to grant or revoke authority to make Noncareer Executive Assignments shall be published in the Federal Register.

SEC. 9.21 QUALIFICATIONS REQUIRED FOR A NONCAREER EXECUTIVE ASSIGNMENT. After appropriate consultation with the agency concerned the Commission shall establish specific qualification standards for assignment to a Noncareer Executive Assignment. In addition, as a qualification for continuance in a Noncareer Executive Assignment, the incumbent must continue to maintain the qualifications and relationships that are required for the particular Noncareer Executive Assignment.

SEC. 9.22 NONCAREER EXECUTIVE ASSIGNMENT; SELECTION AND ASSIGNMENT. An appointing officer may make a Noncareer Executive Assignment only after the Commission has finally approved the qualifications of the person selected. He shall inform each person selected of the qualifications required under section 9.21 of this Rule for assignment to and continuance in a Noncareer Executive Assignment.

SEC. 9.23 REMOVAL FROM A NONCAREER EXECUTIVE ASSIGNMENT. An appointing officer shall remove a person from a Noncareer Executive Assignment when the person's qualifications or relationships required for the assignment change or cease to exist.

PART II—SPECIAL PROVISIONS FOR TRANSITION FROM INDEFINITE APPOINTMENT SYSTEM TO CAREER-CONDITIONAL APPOINTMENT SYSTEM

§ 201

(a) Under such conditions as the Civil Service Commission may prescribe, all employees serving under indefinite appointments in the competitive service on the effective date of this order who were appointed by selection in regular order from appropriate competitive civil-service registers established subsequent to February 4, 1946, shall, as of the effective date of this order, have their appointments converted to career-conditional appointments if they have had less than three years of creditable service, and to career appointments if they have had three or more years of such service since they were appointed: *Provided,* That any such employees who left their positions prior to the effective date of this order to enter the armed forces of the United States and are reemployed in the competitive service after the effective date of this order pursuant to application for employment made within ninety days after honorable discharge, or after hospitalization continuing after discharge for not more than one year, shall have their former indefinite appointments converted to career-conditional or career appointments in accordance with this section: *Provided further,* That employees serving in excepted positions who would meet the conditions for career-conditional or career appointments if they were serving in competitive positions shall be granted competitive status upon completion of a probationary period.

(b) The Commission may prescribe the conditions under which employees who are serving under indefinite appointments in the competitive service on the effective date of this order and who were not appointed by selection in regular order from competitive civil-service registers may be examined and have their names entered on existing competitive civil-service registers. When such employees are within reach for appointment from such registers they shall be eligible for career-conditional appointments if, since they were given indefinite appointments, they have had less than three years of creditable service, and for career appointments if they have had three or more years of such service.

(c) All employees in the competitive service who on the effective date of this order are serving under indefinite appointments made noncompetitively based upon prior service with a competitive status shall, as of the effective date of this order, have their appointments converted to career-conditional appointments if they have had less than three years of creditable service and to career appointments if they have had three or more years of such service under either permanent or indefinite appointment: *Provided,* That any such employees who left their positions prior to the effective date of this order to enter the armed forces of the United States and are reemployed in the competitive service after the effective date of this order pursuant to application for employment made within ninety days after honorable discharge, or after hospitalization continuing after discharge for not more than one year, shall have their former indefinite appointments converted to career-conditional or career appointments in accordance with this section: *Provided further,* That any such employees in the field service of the Post Office Department whose salary rates are fixed by the act of July 6, 1945, 59 Stat. 435 [chapter 23 of Title 39], as heretofore or hereafter amended and supplemented, shall have their appointments converted to career appointments if they are serving in positions in the authorized complement of permanent positions (consisting of regular positions and positions within the authorized quota of substitutes).

(d) The Commission shall define "creditable service" and shall prescribe the conditions for completion of the period of creditable service required for career appointment.

(e) Except as provided in section 201(c) hereof, this section shall not apply to employees serving under indefinite appointments in the field service of the Post Office Department whose salary rates are fixed by the act of July 6, 1945, 59 Stat. 435 [chapter 23 of title 39], as heretofore or hereafter amended and supplemented.

§ 202

(a) Notwithstanding the provisions of section 201(a) of this order, and subject to such noncompetitive examination or other requirements as the Commission may prescribe, any employee entitled to veteran preference who has a compensable service-connected disability of ten per centum or more may, upon recommendation of the agency concerned, noncompetitively acquire a competitive status subject to completion of a probationary period: *Provided,* That he is serving under an indefinite appointment, a temporary appointment pending establishment of a register, or a temporary appointment for job employment which has been continuous for more than one year: *Provided further,* That recommendation for acquisition of status under this section is made not later than December 31, 1957.

(b) Any employee who is recommended for noncompetitive acquisition of competitive status under section 202 (a) hereof and who satisfies the noncompetitive examination and other requirements of the Commission shall have the appointment under which he is serving converted to a career appointment if he has completed a probationary period or to a career-conditional appointment if he has not completed a probationary period. The career-conditional appointment of such an employee shall be converted to a career appointment upon completion of probation.

(c) An employee in the field service of the Post Office Department whose salary rate is fixed by the act of July 6, 1945, 59 Stat. 435 [chapter 23 of Title 39], as heretofore or hereafter amended and supplemented, may not be recommended for competitive status under section 202(a) hereof unless he can be appointed to a vacancy in the authorized complement of permanent positions (consisting of regular positions and positions within the authorized quota of substitutes). When such an employee is recommended for noncompetitive acquisition of competitive status and satisfies the noncompetitive examination and other requirements of the Commission, his appointment shall be converted to a career appointment subject to satisfactory completion of a probationary period.

§ 203

The career-conditional appointment of any employee entitled to veteran preference who has a compensable service-connected disability of ten per centum or more may be converted to a career appointment: *Provided,* That he receives his career-conditional appointment prior to January 1, 1958, and that, not later than December 31, 1958, the agency in which he is employed recommends such conversion and certifies to the Commission that he has satisfactorily completed a one-year probationary period: *Provided further,* That any such employee who is not certified for career appointment under this section shall have his career-conditional appointment converted to a career appointment when he has completed the service requirement for such appointment prescribed under section 2.2(a) of Civil Service Rule II.

§ 204

In order to effectuate the purposes of section 1310 of the Supplemental Appropriations Act, 1952 (65 Stat. 757), as amended [set out as a note under section 3101 of this title], the Commission shall, after consultation with the agencies concerned, determine the division of allowable permanent appointments within and between the excepted service and the competitive service.

§ 205

The Commission shall issue such regulations and instructions as may be necessary to effectuate the purposes of this part.

PART III

§ 301

The following-described executive orders and parts of executive orders are hereby revoked:

Part II of Executive Order No. 9830 of February 24, 1947, amending the Civil Service Rules: *Provided*, That the positions listed in Schedules A, B, and C as provided for in Civil Service Rule VI of that order, as amended, shall be considered as being listed in Schedules A, B, and C, respectively, as provided for in Civil Service Rule VI of this order, unless and until they are removed therefrom by the Commission.

Executive Orders No. 9973 of June 28, 1948, No. 10440 of March 31, 1953, and No. 10463 of June 25, 1953, amending Civil Service Rule VI.

Executive Order No. 10180 of November 13, 1950, establishing special personnel procedures in the interest of national defense.

PART IV

§ 401

This order shall become effective on the first Sunday after the sixtieth day after the date hereof.

DWIGHT D. EISENHOWER.

EXECUTIVE ORDER No. 10590

Ex. Ord. No. 10590, Jan. 18, 1955, 20 F.R. 409, as amended by Ex. Ord. No. 10722, Aug. 7, 1957, 22 F.R. 6287; Ex. Ord. No. 10773, July 1, 1958, 23 F.R. 5061; Ex. Ord. No. 10782, Sept. 8, 1958, 23 F.R. 6971, which established the President's Committee on Government Employment Policy, was superseded by Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, set out as a note under section 2000e of Title 42, The Public Health and Welfare.

EX. ORD. NO. 10880. CONVERSION OF INDEFINITE OR TEMPORARY APPOINTMENT TO CAREER OR CAREER-CONDITIONAL APPOINTMENT

Ex. Ord. No. 10880, June 7, 1960, 25 F.R. 5131, provided:

By virtue of the authority vested in me by section 2 of the Civil Service Act (22 Stat. 403) and section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) [now this section and section 7301 of this title], and as President of the United States, it is hereby ordered as follows:

SECTION 1. (a) Except as provided by subsection (b) of this section and by section 4 hereof, any employee of the United States Government or of the District of Columbia Government who on the date of this order is serving in a position in the competitive service under an indefinite appointment or a temporary appointment without a definite time limitation may have his appointment converted to a career or career-conditional appointment: *Provided*, That such employee—

(i) shall have completed two years of continuous service immediately preceding the date of this order in a competitive position or positions;

(ii) shall be recommended for the benefits of this order by his agency within one year after the date of this order;

(iii) shall have completed, prior to the date of recommendation by his agency, a total of continuous or intermittent satisfactory service aggregating not less than three years in a competitive position or positions;

(iv) during the period beginning January 23, 1955, and ending on the date of this order, shall have passed a qualifying examination for a position in the competitive service in which he served during such period, or shall meet such noncompetitive examination standards as the Civil Service Commission shall prescribe with respect to the position held at the time of the agency recommendation for conversion of his appointment; and

(v) shall meet the requirements prescribed by the Civil Service Commission under section 5 of this order.

(b) The requirements of paragraphs (i) and (iii) of subsection (a) of this section shall not apply to substitute employees of the Postal Field Service. In lieu of such requirements, any such employee, during each year of the three-year period ending on the date that conversion of his appointment is recommended, shall have been paid for at least 700 hours of satisfactory work in a competitive position or positions for which the salary is fixed by the Postal Field Service Compensation Act of 1955 as amended (39 U.S.C. 951-1038) [now covered by chapter 45 of Title 39]. The conversion of the appointment of a substitute employee shall be effected only as career substitute vacancies are available, under applicable law, in the Postal Field Service.

SEC. 2. For the purposes of section 1 hereof, (a) "Status-quo" employees shall be considered as serving under indefinite appointments, and (b) "service" shall include military service if the employee shall have left a competitive position to enter the armed forces of the United States and shall have been re-employed in a competitive position within 120 days after discharge under honorable conditions.

SEC. 3. Any person who left a competitive position to enter the armed forces of the United States who would meet the requirements of section 1 except for absence in the armed forces on the date of this order and who is re-employed by an agency in a competitive position within 120 days after discharge from the armed forces under honorable conditions may have his appointment converted if he is recommended by such agency within ninety days after his re-employment and qualifies in such examination as the Civil Service Commission may prescribe.

SEC. 4. This order shall not apply to postmasters or rural carriers, or to employees serving under overseas limited appointments of indefinite or fixed duration.

SEC. 5. The Civil Service Commission may prescribe such regulations as may be necessary for carrying out the provisions of this order.

DWIGHT D. EISENHOWER.

EXECUTIVE ORDER No. 10925

Ex. Ord. No. 10925, Mar. 7, 1961, 26 F.R. 1977, as amended by Ex. Ord. No. 11114, June 24, 1963, 28 F.R. 6485; Ex. Ord. No. 11162, July 28, 1964, 29 F.R. 10563, which established the President's Committee on Equal Employment Opportunity, was superseded by Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, set out as a note under section 2000e of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER No. 11114

Ex. Ord. No. 11114, June 24, 1963, 28 F.R. 6485, as amended by Ex. Ord. No. 11162, July 28, 1964, 29 F.R. 10563, which extended the authority of the President's Committee on Equal Employment Opportunity, was superseded by Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, set out as a note under section 2000e of Title 42, The Public Health and Welfare.

EX. ORD. NO. 11141. DISCRIMINATION ON THE BASIS OF AGE

Ex. Ord. No. 11141, Feb. 12, 1964, 29 F.R. 2477, provided:

WHEREAS the principle of equal employment opportunity is now an established policy of our Government and applies equally to all who wish to work and are capable of doing so; and

WHEREAS discrimination in employment because of age, except upon the basis of a *bona fide* occupational qualification, retirement plan, or statutory requirement, is inconsistent with that principle and with the social and economic objectives of our society; and

WHEREAS older workers are an indispensable source of productivity and experience which our Nation can ill afford to lose; and

WHEREAS President Kennedy, mindful that maximum national growth depends on the utilization of all manpower resources, issued a memorandum on March 14, 1963, reaffirming the policy of the Executive Branch of the Government of hiring and promoting employees on the basis of merit alone and emphasizing the need to assure that older people are not discriminated against because of their age and receive fair and full consideration for employment and advancement in Federal employment; and

WHEREAS, to encourage and hasten the acceptance of the principle of equal employment opportunity for older persons by all sectors of the economy, private and public, the Federal Government can and should provide maximum leadership in this regard by adopting that principle as an express policy of the Federal Government not only with respect to Federal employees but also with respect to persons employed by contractors and subcontractors engaged in the performance of Federal contracts:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States and as President of the United States, I hereby declare that it is the policy of the Executive Branch of the Government that (1) contractors and subcontractors engaged in the performance of Federal contracts shall not, in connection with the employment, advancement, or discharge of employees, or in connection with the terms, conditions, or privileges of their employment, discriminate against persons because of their age except upon the basis of a *bona fide* occupational qualification, retirement plan, or statutory requirement, and (2) that contractors and subcontractors, or persons acting on their behalf, shall not specify, in solicitations or advertisements for employees to work on Government contracts, a maximum age limit for such employment unless the specified maximum age limit is based upon a *bona fide* occupational qualification, retirement plan, or statutory requirement. The head of each department and agency shall take appropriate action to enunciate this policy, and to this end the Federal Procurement Regulations and the Armed Services Procurement Regulation shall be amended by the insertion therein of a statement giving continuous notice of the existence of the policy declared by this order.

LYNDON B. JOHNSON.

EXECUTIVE ORDER NO. 11162

Ex. Ord. No. 11162, July 28, 1964, 29 F.R. 10563, which related to membership of the President's Committee on Equal Employment Opportunity, was superseded by Ex. Ord. No. 11246, Sept. 24, 1965, 30 F.R. 12319, set out as a note under section 2000e of Title 42, The Public Health and Welfare.

EXECUTIVE ORDER NO. 11202

Ex. Ord. No. 11202, Mar. 5, 1965, 30 F.R. 3185, formerly set out as a note under this section, which established career or career-conditional appointments for student trainees, was revoked by Ex. Ord. No. 11813, Oct. 7, 1974, 39 F.R. 36317, set out as a note under this section.

EX. ORD. NO. 11203. CAREER APPOINTMENTS TO CERTAIN QUALIFIED EMPLOYEES OF TREASURY DEPARTMENT

Ex. Ord. No. 11203, Mar. 12, 1965, 30 F.R. 3417, provided:

By virtue of the authority vested in me by Section 2 of the Civil Service Act (22 Stat. 403) and Section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) [now this section and section 7301 of this title] and as President of the United States, it is hereby ordered as follows—

SECTION 1. Any employee of the Treasury Department serving under an appointment under Schedule B of the Civil Service Rules in a position concerned with the protection of the life and safety of the President, members of his immediate family, or other persons for whom similar protective services are provided by law (which responsibility is hereinafter referred to as the protective function) may have his appointment converted to a career appointment if:

(1) he has completed at least three years of full-time continuous service in a position concerned with the protective function;

(2) The Secretary of the Treasury, or his designee, recommends the conversion of the employee's appointment within 90 days after the employee meets the service requirements of this section, or within 90 days after the date of this Order, whichever is later;

(3) he shall have passed a competitive examination appropriate for the position he is occupying or meets noncompetitive examination standards the Civil Service Commission prescribes for his position; and

(4) he meets all other requirements prescribed by the Commission pursuant to Section 5 of this Order.

SEC. 2. For the purposes of Section 1—

(1) "full-time continuous service" means service without a break of more than 30 calendar days;

(2) except as provided in paragraph (3) of this section, active service in the Armed Forces of the United States shall be deemed to be full-time continuous service in a position concerned with the protective function if the employee concerned shall have left a position concerned with the protective function to enter the Armed Forces and shall have been re-employed in a position concerned with the protective function within 120 days after he shall have been discharged from the Armed Forces under honorable conditions; and

(3) active service in the Armed Forces shall not be deemed to be full-time continuous service in a position concerned with the protective function if such active service exceeds a total of four years plus any period of additional service imposed pursuant to law.

SEC. 3. Any employee who shall have left a position concerned with the protective function to enter active service in the Armed Forces of the United States, who is re-employed in such a position within 120 days after his discharge under honorable conditions from such service, and who meets the requirements of Section 1 as the result of being credited with his period of active service in the Armed Forces pursuant to Section 2(2), may have his appointment converted if the Secretary of the Treasury or his designee, recommends that conversion within 90 days after his re-employment.

SEC. 4. Whenever the Secretary of the Treasury, or his designee, decides not to recommend conversion of the appointment of an employee under this Order or whenever the Secretary, or his designee, recommends conversion and the employee fails to qualify, the employee shall be separated by the date on which his current Schedule B appointment expires.

SEC. 5. The Civil Service Commission shall prescribe such regulations as may be necessary to carry out the purposes of this Order.

LYNDON B. JOHNSON.

EX. ORD. NO. 11219. APPOINTMENT IN COMPETITIVE SERVICE OF FOREIGN SERVICE OFFICERS AND EMPLOYEES

Ex. Ord. No. 11219, May 6, 1965, 30 F.R. 6381, provided:

By virtue of the authority vested in me by section 1753 of the Revised Statutes [this section and section 7301 of this title] and the Civil Service Act (22 Stat. 403), and as President of the United States, it is hereby ordered as follows:

SECTION 1. Under regulations and conditions prescribed by the Civil Service Commission, a present or former officer or employee of the Foreign Service may be appointed in the competitive service if he:

(a) Is qualified for the position in the competitive service;

(b) Was appointed in the Foreign Service under authority of the Foreign Service Act of 1946 as amended [section 801 et seq. of Title 22, Foreign Relations and Intercourse], or legislation that supplements or replaces that Act;

(c) Served in the Foreign Service under an unlimited, career-type appointment and, immediately before his separation from that appointment, he completed at least one year of continuous service under one or more nontemporary appointments in the Foreign Service which may include the service that made him eligible for his career-type appointment; and

(d) Is appointed within 3 years after his separation from the Foreign Service, or he completed at least 3 years of substantially continuous service under one or more nontemporary appointments in the Foreign Service immediately before his separation from the unlimited, career-type appointment in that Service which may include the service that made him eligible for such appointment, or he is entitled to preference under section 2 of the Veterans' Preference Act of 1944, as amended [sections 1302 and 2108 of this title].

SEC. 2. (a) Except as provided in paragraph (b) of this section, a person appointed under Section 1 of this Order becomes a career conditional employee.

(b) A person appointed under Section 1 of this Order becomes a career employee when he:

(1) Has completed at least 3 years of substantially continuous service under one or more nontemporary appointments in the Foreign Service immediately before his separation from the unlimited, career-type appointment in that Service which may include the service that made him eligible for such appointment;

(2) Is appointed to a position in the competitive service required by law or Executive order to be filled on a permanent or career basis; or

(3) Has completed the service requirement for career tenure in the competitive service.

For the purpose of subparagraph (3) of this paragraph, service in the Foreign Service is creditable in meeting the service requirement only if the person concerned is appointed to a nontemporary position in the competitive service under Section 1 of this Order within 30 days after his separation from the Foreign Service.

SEC. 3. A person appointed to a nontemporary position in the competitive service under Section 1 of this Order acquires a competitive status automatically on appointment.

SEC. 4. Any law, Executive order, or regulation that would disqualify an applicant for appointment in the competitive service shall also disqualify a person for appointment under Section 1 of this Order.

SEC. 5. For the purpose of this Order, a person is deemed to be an officer or employee in the "Foreign Service" if he was appointed in any agency under authority of the Foreign Service Act of 1946, as amended [section 801 et seq. of Title 22, Foreign Relations and Intercourse], or legislation that supplements or replaces that Act.

LYNDON B. JOHNSON.

EX. ORD. NO. 11315. AMENDING THE CIVIL SERVICE RULES TO AUTHORIZE AN EXECUTIVE ASSIGNMENT SYSTEM FOR POSITIONS IN GRADES 16, 17, AND 18 OF THE GENERAL SCHEDULE

Ex. Ord. No. 11315, Nov. 17, 1966, 31 F.R. 14729.

WHEREAS, the increasing complexities of Government require personnel of the highest attainable qualifications who are capable of assuming and discharging efficiently major and varied duties and responsibilities in the Executive Branch in response to present and future needs; and

WHEREAS, this need for high quality can best be met by the establishment of an executive assignment system for the top three grades of the General Schedule, extending and adapting merit principles in recruitment, selection, and development, combined with improvements in the identification, assignment and utilization of key personnel:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States, by 5 U.S.C. 3301 and 3302, and as President of the United States, it is ordered as follows:

PART I. CIVIL SERVICE RULES

SECTION 1. The Civil Service Rules are amended by the addition of Civil Service Rule IX reading as follows:

RULE IX. EXECUTIVE ASSIGNMENT SYSTEM FOR POSITIONS IN GRADES GS-16, 17, AND 18 OF THE GENERAL SCHEDULE

In General

SECTION 9.1 *Coverage.* Except as otherwise provided by law, this Rule applies to:

(a) positions in grades 16, 17, and 18 of the General Schedule that are in the Executive Branch, except positions excluded from the coverage of 5 U.S.C. 3324(a) by paragraphs (1), (2), and (4) thereof and any position now or hereafter excepted under Civil Service Rule VI so long as that exception remains in effect; and

(b) persons who are given executive assignments to these positions.

SEC. 9.2 *Filling positions covered by this Rule.* An appointing officer shall fill a position covered by this Rule by Career Executive Assignment, unless the Commission authorizes a Limited Executive Assignment under section 9.6 of this Rule or a Noncareer Executive Assignment under section 9.20 of this Rule.

Career Executive Assignments

SEC. 9.3 *Qualifications required for a Career Executive Assignment.* After appropriate consultation with the agency concerned the Commission shall establish specific qualification standards for assignment to a Career Executive Assignment.

SEC. 9.4 *Recruitment for Career Executive Assignments.* (a) Before selecting any person for a Career Executive Assignment the appointing officer shall first consider fully employees under his agency's merit promotion program and available employees of other Federal agencies qualified pursuant to paragraph (b) of this section. Only after this consideration may the appointing officer elect to recruit applicants from outside the Federal service pursuant to paragraph (b) of this section.

(b) The Commission shall be responsible for the establishment of special facilities, including special boards and panels, to recruit well-qualified persons for Career Executive Assignments in the Federal service from among employees holding Career Executive Assignments, other eligible employees, and persons outside the Federal service. The appointing officer shall use these special facilities, including special boards and panels, to recruit applicants from outside the Federal service.

(c) The procedures in this section do not apply when the Commission authorizes the movement of an incumbent Career Executive to a Career Executive Assignment at the same or lower grade.

SEC. 9.5 *Career Executive Assignments; selection and assignment.* (a) An appointing officer shall select a person for a Career Executive Assignment solely on the basis of merit and fitness. He shall not permit or consider any political test, qualification, clearance, or recommendation, and shall not discriminate on the basis of race, religion, national origin, sex, age, or physical disability.

(b) The appointing officer may make a Career Executive Assignment only after the Commission has finally approved the qualifications and suitability of the person selected.

SEC. 9.6 *Authorization of Limited Executive Assignments.* (a) The Commission may authorize agencies to fill a position covered by this Rule by a Limited Executive Assignment when:

(1) the position is expected to be of limited duration; or

(2) the agency concerned establishes an unusual need for urgent staffing that cannot adequately be

met under the procedures required for Career Executive Assignments.

(b) The Commission shall specify a time limit within which an agency may use this authority and may revoke this authority at anytime.

SEC. 9.7 *Qualifications required for a Limited Executive Assignment.* After appropriate consultation with the agency concerned the Commission shall establish specific qualification standards for assignment to a Limited Executive Assignment.

SEC. 9.8 *Limited Executive Assignment; selection and assignment.* An appointing officer may make a Limited Executive Assignment only after the Commission has finally approved the qualifications of the person selected.

SEC. 9.9 *Removal from a Limited Executive Assignment.* An appointing officer may remove a person from a Limited Executive Assignment when, in his judgment, the purpose of the assignment has been served or conditions warrant discontinuance of the assignment.

SEC. 9.10 *Limited Executive Assignment; change to other type of appointment.* If a person completes five years of continuous service in an agency in a Limited Executive Assignment the appointing officer shall:

(a) convert his assignment to a Career Executive Assignment, or to a Noncareer Executive Assignment;

(b) give him a career appointment to a continuing position in the competitive service in grade GS-15, or below, or

(c) separate him from the service.

Noncareer Executive Assignments

SEC. 9.20 *Exception of positions to be filled by Noncareer Executive Assignments.* (a) After consulting the agency concerned, the Commission may except a position from the procedures required for making Career Executive Assignments and authorize an agency to fill the position by a Noncareer Executive Assignment when it determines that there is a need for filling the position by a person who will:

(1) be deeply involved in the advocacy of Administration programs and support of their controversial aspects;

(2) participate significantly in the determination of major political policies of the Administration; or

(3) serve principally as personal assistant to or adviser of a Presidential appointee or other key political figure.

(b) In determining the positions to be excepted under paragraph (a) of this section the Commission shall:

(1) limit the number of positions excepted to a relatively small proportion of the positions in the agency in grades 16, 17, and 18, taking into consideration the size of the agency and the nature of its program; and

(2) define the area of the agency's activity in which Noncareer Executive Assignments would be appropriate and specify organizational levels, as distinguished from grade levels, below which Noncareer Executive Assignments would be inappropriate.

(c) The Commission shall not except a position which has as its principal responsibility the internal management of an agency, or a position involving long-standing recognized professional duties and responsibilities resting on a body of knowledge essentially politically neutral in nature. However, a position concerned with the direction of a scientific program could be appropriately excepted when it meets the criteria set forth in paragraph (a) (1), (2), or (3) of this section.

(d) The Commission shall review periodically the exceptions made under this section and after consulting the agency concerned, shall revoke an exception when the position no longer meets the criteria for exception. Civil Service Rule III, providing for the noncompetitive acquisition of competitive status, shall not apply in such a case.

(e) Notice of the Commission's decision to grant or revoke authority to make Noncareer Executive Assignments shall be published in the Federal Register.

SEC. 9.21 *Qualifications required for a Noncareer Executive Assignment.* After appropriate consultation with the agency concerned the Commission shall establish specific qualification standards for assignment to a Noncareer Executive Assignment. In addition, as a qualification for continuance in a Noncareer Executive Assignment, the incumbent must continue to maintain the qualifications and relationships that are required for the particular Noncareer Executive Assignment.

SEC. 9.22 *Noncareer Executive Assignment; selection and assignment.* An appointing officer may make a Noncareer Executive Assignment only after the Commission has finally approved the qualifications of the person selected. He shall inform each person selected of the qualifications required under section 9.21 of this Rule for assignment to and continuance in a Noncareer Executive Assignment.

SEC. 9.23 *Removal from a Noncareer Executive Assignment.* An appointing officer shall remove a person from a Noncareer Executive Assignment when the person's qualifications or relationships required for the assignment change or cease to exist.

CIVIL SERVICE RULE VI

SEC. 2. Civil Service Rule VI is amended in pertinent part as follows:

(a) Section 6.1(a) is amended to read as follows:

"(a) The Commission may except positions from the competitive service when it determines that appointments thereto through competitive examination are not practicable. These positions shall be listed in the Commission's annual report for the fiscal year in which the exceptions are made. The exception from the competitive service is effective on publication in the Federal Register."

(b) Section 6.6 is amended to read as follows:

"Section 6.6 *Revocation of exceptions.* The Commission may remove any position from or may revoke in whole or in part any provision of Schedule A, B, or C. These changes are effective on publication in the Federal Register."

PART II. SPECIAL PROVISIONS FOR TRANSITION TO THE FULL ESTABLISHMENT OF EXECUTIVE ASSIGNMENTS UNDER RULE IX

SEC. 3. *Effective dates.* This order, except section 1, is effective upon filing for publication in the Federal Register. Section 1 of this order is effective not later than one year from the date of this order, or at such earlier dates as the Civil Service Commission may specify for individual agencies or positions.

SEC. 4. *Interim appointments.* After the date of this order and before Civil Service Rule IX has become effective as to a position, an appointing officer may fill the position in accordance with the appointment system in effect on the day of the appointment.

SEC. 5. *Conversion of incumbents.* On the day Civil Service Rule IX becomes effective as to a position, the appointment of the incumbent of that position shall be changed as follows:

(a) If he is serving under a career or career-conditional appointment in the competitive service, he shall be converted to a Career Executive Assignment;

(b) If he is serving in the excepted service under a nontemporary appointment, he shall be converted to a Noncareer Executive Assignment;

(c) If he is serving in the competitive service under an indefinite or temporary appointment without definite time limit and:

(1) if he has served under this type of appointment for at least five years, he shall be:

(i) converted to a Career Executive Assignment, or appointed to a continuing position in the competitive service in grade GS-15, or below;

(ii) converted to a Noncareer Executive Assignment; or

(iii) separated from the service; or

(2) if he has served under this type of appointment for less than five years, he shall be:

(i) converted to a Noncareer Executive Assignment;

(ii) separated from the service; or

(iii) allowed to continue to serve until he has served five years, at which time the appointing officer shall take one of the actions provided for in subparagraph (1) of this paragraph.

An incumbent who is serving under any other type of appointment shall continue under that appointment until it is terminated.

PART III. ADMINISTRATION

SEC. 6. *Commission responsibilities.* The Civil Service Commission is responsible to the President for the effective implementation and administration of the executive assignment system established by this Order. The Commission shall continuously review operations under this system, shall recommend promptly to the President any changes that are necessary to improve this system, and shall report periodically to the President any significant developments in the operation of the system. The Commission shall recommend to the President a program of special honors and awards for the recognition of persons assigned to Career Executive Assignments and a program for the development and training of persons assigned to Career Executive Assignments. The training program shall include the establishment of special training and educational facilities, and provide for the relevant use of outside training facilities.

SEC. 7. *Responsibilities of the agencies.* The head of each agency in which there are positions covered by Civil Service Rule IX shall periodically review with the Civil Service Commission his plans for staffing. The head of a newly established agency shall initially review with the Commission his plans for staffing as soon as practicable after the establishment of the agency. The head of each agency shall cooperate fully with the Commission in the establishment of special facilities and special boards and panels that are required under Civil Service Rule IX as a means of recruiting persons of the highest quality.

SEC. 8. *Regulations.* The Civil Service Commission shall prescribe such regulations as may be necessary to carry out the purpose and intent of this Order.

LYNDON B. JOHNSON.

EXECUTIVE ORDER NO. 11598

Ex. Ord. No. 11598, June 16, 1971, 36 F.R. 11711, formerly set out as a note under this section, which related to the listing of certain job vacancies by federal agencies and government contractors and subcontractors, was superseded by Ex. Ord. No. 11701, Jan. 24, 1973, 38 F.R. 2675, set out as a note under section 2012 of Title 38, Veterans' Benefits.

EX. ORD. NO. 11813. CAREER OR CAREER-CONDITIONAL APPOINTMENTS FOR COOPERATIVE EDUCATION STUDENTS

Ex. Ord. No. 11813, Oct. 7, 1974, 39 F.R. 36317, provided:

By virtue of the authority vested in me by sections 1301 and 3301 of title 5 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. As used in this order, "cooperative education" describes a program which provides for a formally arranged schedule of periods of attendance at an institution of higher learning combined with periods of study-related work in a Federal agency under a Schedule B appointment. Together, the periods of work and study satisfy requirements for a bachelor's degree and provide experience necessary for a career or career-conditional appointment to an administrative, professional, or technical position in the Federal Government upon the student's graduation.

SEC. 2. Under this order, the appointment of a cooperative education student under Schedule B of the civil service rules may be converted noncompetitively to a career-conditional or career appointment if the student:

(1) has completed within the preceding 90 days a cooperative education program that meets the provisions of this order;

(2) has satisfied all requirements leading to the award of a bachelor's degree by the college or university in which the student completed his or her cooperative education curriculum;

(3) is recommended for such appointment by the employing agency; and,

(4) satisfies all other applicable requirements and conditions prescribed by the Civil Service Commission for career and career-conditional employment.

SEC. 3. The Civil Service Commission shall prescribe such regulations as may be necessary to carry out the provisions of this order and to provide for the coordination of the planning, implementation, and evaluation of employment of cooperative education students throughout the Government. The regulations shall provide for the periodic evaluation of the work of each cooperative education student and shall require that continuation in the program be dependent upon a finding of satisfactory performance.

SEC. 4. Executive Order No. 11202 of March 5, 1965, is hereby revoked.

SEC. 5. This order shall become effective immediately.

GERALD R. FORD.

EX. ORD. NO. 11839. AMENDING THE CIVIL SERVICE RULES TO EXCEPT CERTAIN POSITIONS IN REGIONAL OFFICES FROM THE CAREER SERVICE

Ex. Ord. No. 11839, Feb. 15, 1975, 40 F.R. 7351, provided:

The program to decentralize Federal policy and decision making and to involve local governments and other interested parties in Federal, State, and local policy and program development requires a capability for deep involvement in the development and advocacy of Administration proposals and policies, and support of their controversial aspects, on the part of certain senior regional officials.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. Civil Service Rule VI is amended by adding the following Section:

"SECTION 6.8. SPECIFIED EXCEPTIONS

"Positions in the Department of the Interior whose incumbents serve as the principal representative of the Secretary in their respective regions shall be listed in Schedule C for grades not exceeding grade GS-15 of the General Schedule and shall be designated Noncareer Executive Assignments for positions graded higher than GS-15. Incumbents of these positions who are, on February 15, 1975, in the competitive service shall not be affected by the foregoing provisions of this Section."

SEC. 2. Civil Service Rule IX is amended by adding the following:

"SEC. 9.11. SPECIFIED NONCAREER EXECUTIVE ASSIGNMENTS

"The regional director, regional administrator, or the Secretary's principal regional representative positions in the Department of Health, Education, and Welfare, Housing and Urban Development, Transportation and Labor, and those positions in the Environmental Protection Agency shall be designated Noncareer Executive Assignments; and, the Limited Executive Assignments of any incumbents of these positions on February 15, 1975, are converted to Noncareer Executive Assignments. Incumbents of these positions serving in Career Executive Assignments on February 15, 1975, shall not be affected by the foregoing provisions of this Section."

GERALD R. FORD.

Ex. Ord. No. 11856. Amending the Civil Service Rules to Except Certain Positions in Regional Offices from the Career Service

Ex. Ord. No. 11856, May 7, 1975, 40 F.R. 20259, provided:

By virtue of the authority vested in me by the Constitution of the United States of America and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, Section 9.11 of Civil Service Rule IX is amended by adding "and the Small Business Administration" after "Environmental Protection Agency."

Gerald R. Ford.

Ex. Ord. No. 11887. Amending the Civil Service Rules to Except Certain Positions from the Career Service

Ex. Ord. No. 11887, Nov. 4, 1975, 40 F.R. 51411, provided:

By virtue of the authority vested in me by the Constitution of the United States of America and Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, Section 6.8 of Civil Service Rule VI is amended by adding "and in the Department of Commerce" after "Department of the Interior".

Gerald R. Ford.

Ex. Ord. No. 11935. Amending the Civil Service Rules Concerning Citizenship Requirements for Federal Employment

Ex. Ord. No. 11935, Sept. 2, 1976, 41 F.R. 37301, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, including Sections 3301 and 3302 of Title 5 of the United States Code, and as President of the United States of America, Civil Service Rule VII (5 CFR Part 7) is hereby amended by adding thereto the following new section:

"Section 7.4. Citizenship

"(a) No person shall be admitted to competitive examination unless such person is a citizen or national of the United States.

"(b) No person shall be given any appointment in the competitive service unless such person is a citizen or national of the United States.

"(c) The Commission may, as an exception to this rule and to the extent permitted by law, authorize the appointment of aliens to positions in the competitive service when necessary to promote the efficiency of the service in specific cases or for temporary appointments.".

Gerald R. Ford.

Ex. Ord. No. 11955. Career or Career-Conditional Appointment to Certain Qualified Employees of National Aeronautics and Space Administration

Ex. Ord. No. 11955, Jan. 10, 1977, 42 F.R. 2499, provided:

By virtue of the authority vested in me by section 3301 of title 5 of the United States Code [this section], and as President of the United States of America, it is hereby ordered as follows:

Section 1. The appointment of a Command Pilot, Pilot or Mission Specialist candidate to a position in the Space Shuttle Astronaut Program of the National Aeronautics and Space Administration, which is listed under Schedule B of the Schedule of Excepted Positions, may be converted to career or career-conditional appointment if:

(a) the candidate has successfully completed two years of service as a candidate in an appropriate training program;

(b) the Administrator of the National Aeronautics and Space Administration, or the Administrator's designee, recommends the conversion of the candidate's appointment within ninety days of completion of the requirements of section 1(a);

(c) the candidate meets noncompetitive examination standards prescribed by the United States Civil Service Commission; and

(d) the candidate meets all other requirements prescribed by the United States Civil Service Commission pursuant to section 3 of this order.

Sec. 2. Whenever the Administrator of the National Aeronautics and Space Administration, or the Administrator's designee, decides not to recommend conversion of an appointment under this order or whenever the Administrator, or the Administrator's designee, recommends conversion and the candidate fails to qualify, the candidate shall be separated not later than the date of expiration of the current Schedule B appointment, unless the appointment can be converted through appropriate competitive examination or the candidate can be assigned to a suitable position under another excepted authority prior to the expiration date.

Sec. 3. The United States Civil Service Commission shall prescribe such regulations as may be necessary to carry out the purpose of this order.

Gerald R. Ford.

Cross References

President's authority to prescribe regulations for the conduct of employees in the executive branch, see section 7301 of this title.

Removal and suspension of individuals in the competitive service for cause to promote the efficiency of the service, see section 7501 of this title.

Section Referred to in Other Sections

This section is referred to in sections 3304, 3361 of this title; title 25 section 2a.

§ 3302. Competitive service; rules

The President may prescribe rules governing the competitive service. The rules shall provide, as nearly as conditions of good administration warrant, for—

(1) necessary exceptions of positions from the competitive service; and

(2) necessary exceptions from the provisions of sections 2951, 3304(a), 3306(a)(1), 3321, 7152, 7153, 7321, and 7322 of this title.

Each officer and individual employed in an agency to which the rules apply shall aid in carrying out the rules.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 417.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 633 (1) (less function of Civil Service Commission), (2)8 (last sentence).	Jan. 16, 1883, ch. 27, § 2(1) (less function of Civil Service Commission), (2) 8 (last sentence), 22 Stat. 403, 404.

The reference to the competitive service is substituted for the reference to the Act creating that service. The reference to reasons for the exceptions is omitted as covered by section 1308 of this title. The words "provide for" are substituted for "provide and declare". Paragraph (1) is supplied to preserve the President's power to except positions from the competitive service, previously implied from the power to except from the first rule in former section 633(2). Authority to make exceptions to so much of former section 633(2) as is restated in this section and section 1302(a) is omitted as meaningless. Authority to make exceptions to so much of former section 633(2) as is restated in section 3318(a) is omitted as superseded by former section 857, which is carried into section 3318(a). In the last sentence, the words "Each officer and individual employed in an agency" are substituted for "officers of the United States in the departments and offices" because of the restrictive definition of "officer" in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EXECUTIVE ASSIGNMENT SYSTEM FOR CERTAIN POSITIONS

Amendment of Civil Service rules to authorize an executive assignment system for positions in grades 16, 17, and 18 of the General Schedule, see Ex. Ord. No. 11315, set out as a note under section 3301 of this title.

EX. ORD. NO. 11521. VETERANS READJUSTMENT APPOINTMENT FOR VETERANS OF VIETNAM ERA

Ex. Ord. No. 11521, Mar. 26, 1970, 35 F.R. 5311, provided:

WHEREAS this Nation has an obligation to assist veterans of the armed forces in readjusting to civilian life;

WHEREAS the Federal Government, as an employer, should reflect its recognition of this obligation in its personnel policies and practices;

WHEREAS veterans, by virtue of their military service, have lost opportunities to pursue education and training oriented toward civilian careers;

WHEREAS the Federal Government is continuously concerned with building an effective workforce, and veterans constitute a major recruiting source; and

WHEREAS the development of skills is most effectively achieved through a program combining employment with education or training:

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution of the United States, by sections 3301 and 3302 of title 5, United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. (a) Subject to paragraph (b) of this section, the head of an agency may make an excepted appointment, to be known as a "veterans readjustment appointment", to any position in the competitive service up to and including GS-5 or the equivalent thereof, of a veteran or disabled veteran as defined in section 2108(1), (2), of title 5, United States Code, who:

(1) served on active duty in the armed forces of the United States during the Vietnam era;

(2) at the time of his appointment has completed not more than fourteen years of education; and

(3) is found qualified to perform the duties of the position.

(b) Employment under paragraph (a) of this section is authorized only under a training or educational program developed by an agency in accordance with guidelines established by the Civil Service Commission.

(c) An employee given a veterans readjustment appointment under paragraph (a) of this section shall serve subject to:

(1) the satisfactory performance of assigned duties; and

(2) participation in the training or educational program under which he is appointed.

(d) An employee who does not satisfactorily meet the conditions set forth in paragraph (c) of this section shall be removed in accordance with appropriate procedures.

(e) An employee serving under a veterans readjustment appointment may be promoted, reassigned, or transferred.

(f) An employee who completes the training or educational program and who has satisfactorily completed two years of substantially continuous service under a veterans readjustment appointment shall be converted to career-conditional or career employment. An employee converted under this paragraph shall automatically acquire a competitive status.

(g) In selecting an applicant for appointment under this section, an agency shall not discriminate because of race, color, religion, sex, national origin, or political affiliation.

SEC. 2. (a) A person eligible for appointment under section 1 of this order may be appointed only within one year after his separation from the armed forces, or one year following his release from hospitalization or treatment immediately following his separation from the armed forces, or one year after involuntary separation without cause from (i) a veterans readjustment appointment or (ii) a transitional appointment, or one year after the effective date of this order if he is serving under a transitional appointment.

(b) The Civil Service Commission may determine the circumstances under which service under a transitional appointment may be deemed service under a veterans readjustment appointment for the purpose of paragraph (f) of section 1 of this order.

SEC. 3. Any law, Executive order, or regulation which would disqualify an applicant for appointment in the competitive service shall also disqualify a person otherwise eligible for appointment under section 1 of this order.

SEC. 4. For the purpose of this order:

(a) "agency" means a military department as defined in section 102 of title 5, United States Code, an executive agency (other than the General Accounting Office) as defined in section 105 of title 5, United States Code, and those portions of the legislative and judicial branches of the Federal Government and of the government of the District of Columbia having positions in the competitive service; and

(b) "Vietnam era" means the period beginning August 5, 1964, and ending on such date thereafter as may be determined by Presidential proclamation or concurrent resolution of the Congress.

SEC. 5. The Civil Service Commission shall prescribe such regulations as may be necessary to carry out the provisions of this order.

SEC. 6. Executive Order No. 11397 of February 9, 1968, is revoked. Such revocation shall not affect the right of an employee to be converted to career-conditional or career employment if he meets the requirements of section 1(d) of Executive Order No. 11397 after the effective date of this order.

SEC. 7. This order is effective 14 days after its date.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3304, 3361 of this title.

§ 3303. Competitive service; recommendations of Senators or Representatives

An individual concerned in examining an applicant for or appointing him in the competitive service may not receive or consider a recommendation of the applicant by a Senator or Representative, except as to the character or residence of the applicant.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 418.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 642	Jan. 16, 1883, ch. 27, § 10, 22 Stat. 406.

The prohibition is restated in positive form. The words "An individual concerned in examining an applicant for or appointing him in the competitive service" are substituted for "any person concerned in making any examination or appointment under this act". The word "applicant" is substituted for "person who shall apply for office or place under the provisions of this act". The word "Representative" is substituted for "Member of the House of Representatives".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3304. Competitive service; examinations

(a) The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, for—

(1) open, competitive examinations for testing applicants for appointment in the competitive service which are practical in character and as far as possible relate to matters that fairly test the relative capacity and fitness of the applicants for the appointment sought; and

(2) noncompetitive examinations when competent applicants do not compete after notice has been given of the existence of the vacancy.

(b) An individual may be appointed in the competitive service only if he has passed an examination or is specifically excepted from examination under section 3302 of this title. This subsection does not take from the President any authority conferred by section 3301 of this title that is consistent with the provisions of this title governing the competitive service.

(c) Notwithstanding a contrary provision of this title or of the rules and regulations prescribed under this title for the administration of the competitive service, an individual who served—

(1) for at least 3 years in the legislative branch in a position in which he was paid by the Secretary of the Senate or the Clerk of the House of Representatives; or

(2) for at least 4 years as a secretary or law clerk, or both, to a justice or judge of the United States;

acquires a competitive status for transfer to the competitive service if he is involuntarily separated without prejudice from the legislative or judicial branch, passes a suitable noncompetitive examination, and transfers to the competitive service within 1 year of the separation from the legislative or judicial branch. For the purpose of this subsection, an individual who has served for at least 2 years in a position in the legislative branch described by paragraph (1) of this subsection and who is separated from that position to enter the armed forces is deemed to have held that position during his service in the armed forces.

(d) Employees at any place outside the District of Columbia where the President or a Civil Service Commission board of examiners directs that examinations be held shall allow the reasonable use of public buildings for, and in all proper ways facilitate, holding the examinations.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 418.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 633(2) 1.	Jan. 16, 1883, ch. 27, § 2(2)1, 22 Stat. 403.
	5 U.S.C. 633 (2)7 (less last 17 words).	Jan. 16, 1883, ch. 27, § 2(2)7 (less last 17 words), 22 Stat. 404.

HISTORICAL AND REVISION NOTES—Continued

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(b)	5 U.S.C. 638 (as applicable to appointment).	Jan. 16, 1883, ch. 27, § 7 (as applicable to appointment), 22 Stat. 406.
(c)	5 U.S.C. 631b(b).	Nov. 26, 1940, ch. 919, § 2(b), 54 Stat. 1212. Feb. 12, 1946, ch. 3, 60 Stat. 3. May 29, 1958, Pub. L. 85-432, § 5, 72 Stat. 151.
	5 U.S.C. 631b (c).	June 24, 1952, ch. 456, 66 Stat. 155.
(d)	5 U.S.C. 635 (7th sentence).	Jan. 16, 1883, ch. 27, § 3 (7th sentence), 22 Stat. 404.

In subsection (a), the authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302. The words "competitive service" are substituted for "public service" since the requirements do not apply to the excepted or uniformed service.

In subsection (b), the words "That after the expiration of six months from the passage of this act" are omitted as executed. The words "in the competitive service" are substituted for "in either of the said classes now existing, or that may be arranged hereunder pursuant to said rules" because of the definition of "competitive service" in section 2102. In the second sentence, the words "the provisions of this title governing the competitive service" are substituted for "this act".

In subsection (c), the provisions of former section 631b(b) and (c) are combined and restated for clarity. The words "From and after the effective date of this Act" and "From and after the date of approval of this Act" are omitted as executed. The words "competitive service" are substituted for "classified civil service" in view of the definition of "competitive service" in section 2102. The words "or as a clerical employee of the Senate or House of Representatives" are omitted as included in the reference to "an individual . . . in the legislative branch in a position in which he was paid by the Secretary of the Senate or the Clerk of the House of Representatives". The words "and nothing in this Act shall be construed to impair any right of retransfer provided for under civil service laws or regulations made thereunder" are omitted as unnecessary.

In subsection (d), the word "Employees" is substituted for "collector, postmaster, and other officers of the United States".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

President's power to grant exceptions from provisions of subsec. (a) of this section, see section 3302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title; title 38 section 2023; title 40 section 42.

§ 3304a. Competitive service; career appointment after 3 years' temporary service

(a) An individual serving in a position in the competitive service under an indefinite appointment or a temporary appointment pending establishment of a register (other than an individual serving under an overseas limited appointment, or in GS-16, GS-17, or GS-18) acquires competitive status and is entitled to have his appointment converted to a career appointment, without condition, when—

(1) he completes, without break in service of more than 30 days, a total of at least 3 years of service in such a position;

(2) he passes a suitable noncompetitive examination;

(3) the appointing authority (A) recommends to the Civil Service Commission that the appointment of the individual be converted to a career appointment and (B) certifies to the Commission that the work performance of the individual for the past 12 months has been satisfactory; and

(4) he meets Commission qualification requirements for the position and is otherwise eligible for career appointment.

(b) The employing agency shall terminate the appointment of an individual serving in a position in the competitive service under an indefinite or temporary appointment described in subsection (a) of this section, not later than 90 days after he has completed the 3-year period referred to in subsection (a)(1) of this section, if, prior to the close of such 90-day period, such individual has not met the requirements and conditions of subparagraphs (2) to (4), inclusive, of subsection (a) of this section.

(c) In computing years of service under subsection (a)(1) of this section for an individual who leaves a position in the competitive service to enter the armed forces and is reemployed in such a position within 120 days after separation under honorable conditions, the period from the date he leaves his position to the date he is reemployed is included.

(d) The Civil Service Commission may prescribe regulations necessary for the administration of this section.

(Added Pub. L. 90-105, § 1(a), Oct. 11, 1967, 81 Stat. 273, and amended Pub. L. 91-375, § 6(c)(6), Aug. 12, 1970, 84 Stat. 776.)

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-375 struck out ", in the postal field service," following "limited appointment" in the introductory parenthetical text.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE

Section 4 of Pub. L. 90-105 provided that:

"(a) This section and section 3 of this Act [amending the note under section 3101 of this title] shall become effective on the date of enactment of this Act [Oct. 11, 1967].

"(b) Subject to subsection (c) of this section, the first section and section 2 of this Act [enacting this section and section 3303 of Title 39] shall become effective on the one hundred and twentieth day following the date of enactment of this Act [Oct. 11, 1967].

"(c) For the purpose of the application of section 3304a(b) of title 5, United States Code, as enacted by this Act [subsec. (b) of this section], in the case of an individual who, prior to the effective date prescribed by subsection (b) of this section, shall have completed the 3-year period referred to in such section 3304a(b) [subsec. (b) of this section], such individual shall be deemed to have completed such 3-year period on such effective date."

§ 3305. Competitive service; examinations; when held

(a) The Civil Service Commission shall hold examinations for the competitive service at least twice a year in each State and territory or possession of the United States where there are individuals to be examined.

(b) The Commission shall hold an examination for a position to which an appointment has been made within the preceding 3 years, on the application of an individual who qualifies as a preference eligible under section 2108(3)(C)—(G) of this title. The examination shall be held during the quarter following the application.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 418; Pub. L. 90-83, § 1(8), Sept. 11, 1967, 81 Stat. 197.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 635 (last 24 words of 6th sentence).	Jan. 16, 1883, ch. 27, § 3 (last 24 words of 6th sentence), 22 Stat. 404.
(b)	5 U.S.C. 859	June 27, 1944, ch. 287, § 10, 58 Stat. 390. Jan. 19, 1948, ch. 1, § 3, 62 Stat. 3. Dec. 27, 1950, ch. 1151, § 2(b), 64 Stat. 1117.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends various sections of title 5, United States Code, to reflect the redesignation of paragraphs (3) (B) through (F) of section 2108 of title 5 as paragraphs (3)(C) through (G) by section 1(6) of this bill.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1438; title 40 section 42.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3306. Competitive service; departmental service; apportionment

(a)(1) The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that appointments in the departmental service in the District of Columbia be apportioned among the States, territories and possessions of the United States, and the District of Columbia on the basis of population as ascertained at the last census.

(2) Paragraph (1) of this subsection does not apply to a preference eligible, but he may be required to furnish evidence of residence and domicile.

(b) An application for examination for appointment in the departmental service in the District of Columbia shall be accompanied by—

(1) a certificate under the seal of an official of the county and State of which the applicant claims to be a resident, that the applicant was a legal or voting resident of the State when he made the application and had

been for at least 1 year before making the application; or

(2) a statement of the applicant under oath setting forth his legal or voting residence for 1 year before making the application, accompanied by letters from three reputable citizens of the State in which residence is claimed corroborating the statement.

This subsection does not apply to an employee serving in the competitive service with competitive status who seeks promotion or appointment to another position.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 419.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)(1)	5 U.S.C. 633 (2)3 (1st sentence).	Jan. 16, 1883, ch. 27, § 2(2)3 (1st sentence), 22 Stat. 404.
(a)(2)	5 U.S.C. 855 (so much as relates to apportionment).	June 27, 1944, ch. 287, § 6 (so much as relates to apportionment), 58 Stat. 389.
(b)	5 U.S.C. 633 (2)3 (less 1st sentence).	Jan. 16, 1883, ch. 27, § 2(2)3 (less 1st sentence), 22 Stat. 404. Oct. 28, 1949, ch. 778, § 1, 63 Stat. 950. June 14, 1950, ch. 238, 64 Stat. 213.

In subsection (a)(1), the authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302.

In subsection (b)(1), the word "official" is substituted for "officer" in view of the restrictive definition of "officer" in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

President's power to grant exceptions from provisions of subsec. (a)(1) of this section, see section 3302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title; title 22 section 1438.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3307. Competitive service; maximum-age entrance requirements; exceptions

(a) Except as provided in subsections (b), (c), and (d) of this section appropriated funds may not be used to pay an employee who establishes a maximum-age requirement for entrance into the competitive service.

(b) The Secretary of Transportation may, with the concurrence of such agent as the President may designate, determine and fix the maximum limit of age within which an original appointment to a position as an air traffic controller may be made.

(c) The Secretary of the Interior may determine and fix the minimum and maximum limits of age within which original appointments to the United States Park Police may be made.

(d) The head of any agency may, with the concurrence of such agent as the President may designate, determine and fix the minimum and maximum limits of age within which an original appointment may be made to a position as a law enforcement officer or firefighter, as defined by section 833120) and (21), respectively, of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 419; Pub. L. 92-297, § 2(a), May 16, 1972, 86 Stat. 141; Pub. L. 93-350, § 1, July 12, 1974, 88 Stat. 355.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 638 b (less proviso).	June 27, 1956, ch. 452, § 302 (less proviso), 70 Stat. 355.

The prohibition is restated in positive form. The word "officers" is omitted as included in "employees" in view of the definition of "employee" in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-350, § 1(1), inserted reference to subsec. (d).

Subsec. (d). Pub. L. 93-350, § 1(2), added subsec. (d).

1972—Pub. L. 92-297 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

EFFECTIVE DATE OF 1974 AMENDMENT

Section 7 of Pub. L. 93-350 provided that: "The amendments made by the first section [amending this section], and sections 2(b) [adding pars. (20) and (21) to section 8331 of this title], 5 [amending section 8336(c) of this title], and 6 [amending section 8339 (d) of this title], of this Act shall become effective on the date of enactment of this Act [July 12, 1974]. The amendments made by sections 2(a) [amending section 8331(3) of this title] and 3 [amending section 8334 of this title] of this Act shall become effective at the beginning of the first applicable pay period which begins after December 31, 1974. The amendment made by section 4 of this Act [enacting section 8335(g) of this title] shall become effective on January 1, 1978."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-297 effective on the 90th day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

UNITED STATES PARK POLICE; AGE LIMITS FOR ORIGINAL APPOINTMENTS

Pub. L. 91-73, Sept. 26, 1969, 83 Stat. 116, which provided for age limits for appointments to the United States Park Police, was repealed by Pub. L. 92-297, § 11, May 16, 1972, 86 Stat. 145, effective at the end of the 89th day after May 16, 1972. The Secretary of the Interior may now fix age limits for appointment under subsec. (c) of this section.

EX. ORD. NO. 11817. CIVIL SERVICE COMMISSION DESIGNATED AGENT TO CONCUR WITH AGENCY DETERMINATIONS FIXING AGE LIMITS FOR MAKING ORIGINAL APPOINTMENTS RESPECTING LAW ENFORCEMENT OFFICER AND FIREFIGHTER POSITIONS

Ex. Ord. No. 11817, Nov. 5, 1974, 39 F.R. 39427, provided:

By virtue of the authority vested in me by section 3307(d) of title 5 of the United States Code, as added by the first section of the Act of July 12, 1974 (Public Law 93-350; 88 Stat. 355), I hereby designate the United States Civil Service Commission as the agency to concur with determinations made by agencies to fix the minimum and maximum limits of age within which an original appointment may be made to a position as a law enforcement officer or fire fighter, as defined by section 8331(20) and (21), respectively, of title 5 of the United States Code. The designation made by this order shall be effective as of October 15, 1974.

Gerald R. Ford.

§ 3308. Competitive service; examinations; educational requirements prohibited; exceptions

The Civil Service Commission or other examining agency may not prescribe a minimum educational requirement for an examination for the competitive service except when the Commission decides that the duties of a scientific, technical, or professional position cannot be performed by an individual who does not have a prescribed minimum education. The Commission shall make the reasons for its decision under this section a part of its public records.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 419.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 854 (less 1st 2 sentences).	June 27, 1944, ch. 287, § 5 (less 1st 2 sentences), 58 Stat. 388.

The prohibition is restated in positive form. The words "The Civil Service Commission or other examining agency" are added because these are the only agencies to which the prohibition could apply.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 3320 of this title; title 22 section 1438.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3309. Preference eligibles; examinations; additional points for

A preference eligible who receives a passing grade in an examination for entrance into the competitive service is entitled to additional points above his earned rating, as follows—

(1) a preference eligible under section 2108(3)(C)-(G) of this title—10 points; and

(2) a preference eligible under section 2108(3)(A) of this title—5 points.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 419; Pub. L. 90-83, § 1(8), Sept. 11, 1967, 81 Stat. 197.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 852 (1st sentence).	June 27, 1944, ch. 287, § 3 (less proviso), 58 Stat. 388. Jan. 19, 1948, ch. 1, § 2, 62 Stat. 3. Dec. 27, 1950, ch. 1151, § 2(a), 64 Stat. 1117. July 14, 1952, ch. 728, § 2, 66 Stat. 627. Aug. 14, 1953, ch. 485, § 1(a) "Sec. 3 (1st sentence)", 67 Stat. 581.

The word "competitive" is added before "service" for clarity. Application of this section to the excepted service in the executive branch and to the government of the District of Columbia, as provided in former section 858, is carried into section 3320.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1967—Pub. L. 90-83 substituted "section 2108(3)(C)-(G)" for "section 2108(3)(B)-(F)." See Reviser's Note under section 3305 of this title.

Cross References

Definition of preference eligibles, see section 2108 of this title.

Points granted by this section to be included in determining order of entry on registers and lists of eligibles, see section 3313 of this title.

Regulations for administration of provisions giving preference to preference eligibles, see section 1302 of this title.

Seniority not affected by transfer of postal ten-point preference eligibles, see section 1005 of Title 39, Postal Service.

Section Referred to in Other Sections

This section is referred to in sections 3313, 3320 of this title; title 22 section 1438.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3310. Preference eligibles; examinations; guards, elevator operators, messengers, and custodians

In examinations for positions of guards, elevator operators, messengers, and custodians in the competitive service, competition is restricted to preference eligibles as long as preference eligibles are available.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 420.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 852 (2d sentence).	June 27, 1944, ch. 287, § 3 (proviso), 58 Stat. 388. Aug. 14, 1953, ch. 485, § 1(a) "Sec. 3 (2d sentence)", 67 Stat. 581.

The words "in the competitive service" are added for clarity. The reference to "examinations held prior to December 31, 1954, for positions of apprentices" is omitted as obsolete. Application of this section to the excepted service in the executive branch and to the government of the District of Columbia, as provided in former section 858, is carried into section 3320.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 3320 of this title; title 22 section 1438.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3311. Preference eligibles; examinations; crediting experience

In examinations for the competitive service in which experience is an element of qualification, a preference eligible is entitled to credit—

(1) for service in the armed forces when his employment in a similar vocation to that for which examined was interrupted by the service; and

(2) for all experience material to the position for which examined, including experience gained in religious, civic, welfare, service, and organizational activities, regardless of whether he received pay therefor.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 420.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 853	June 27, 1944, ch. 287, § 4, 58 Stat. 388.

The words "for the competitive service" are added after "examinations" for clarity. Application of this section to the excepted service in the executive branch and to the government of the District of Columbia, as provided in former section 858, is carried into section 3320.

In paragraph (1), the words "service in the armed forces" are substituted for "in the military or naval service of the United States" on authority of the Act of July 26, 1947, ch. 343, § 305(a), 61 Stat. 508. The word "actual" is omitted as surplusage.

In paragraph (2), the words "material to the position for which examined" are substituted for "valuable" for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 3320 of this title; title 22 section 1438.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3312. Preference eligibles; physical qualifications; waiver

In determining qualifications of a preference eligible for examination for, appointment in, or reinstatement in the competitive service, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 420.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 854 (1st 2 sentences, less so much as relates to promotion, retention, and transfer).	June 27, 1944, ch. 287, § 5 (1st 2 sentences, less so much as relates to promotion, retention, and transfer), 58 Stat. 388.

The section is restated for clarity and conciseness. The words "for which examination is given" and "for which the examination is given" are omitted as surplusage. The application of this section to the excepted service in the executive branch and the government of the District of Columbia is preserved by section 3320.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 3320 of this title; title 22 section 1438.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3313. Competitive service; registers of eligibles

The names of applicants who have qualified in examinations for the competitive service shall be entered on appropriate registers or lists of eligibles in the following order—

(1) for scientific and professional positions in GS-9 or higher, in the order of their ratings, including points added under section 3309 of this title; and

(2) for all other positions—

(A) disabled veterans who have a compensable service-connected disability of 10 percent or more, in order of their ratings, including points added under section 3309 of this title; and

(B) remaining applicants, in the order of their ratings, including points added under section 3309 of this title.

The names of preference eligibles shall be entered ahead of others having the same rating.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 420.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 856	June 27, 1944, 287, § 7, 58 Stat. 389.
		Aug. 14, 1953, ch. 485, § 1(b), 67 Stat. 581.

The section is restated for clarity and conciseness. The words "for the competitive service" are added for clarity. Application of this section to the excepted service in the executive branch and to the government of the District of Columbia is carried into section 3320. The words "employment lists" are omitted as included in "appropriate registers or lists of eligibles".

In paragraph (1), the words "in GS-9 or higher" are substituted for "in grade 9 or higher of the General Schedule of the Classification Act of 1949, as amended" in view of the codification of the Act in this title, and, in specific sections 5104 and 5332.

In paragraph (2)(A), the term "disabled veterans" is substituted for "preference eligibles" in view of the definition of "disabled veteran" in section 2108(2).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in sections 3314, 3315, 3320 of this title; title 22 section 1438.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3314. Registers; preference eligibles who resigned

A preference eligible who resigns, on request to the Civil Service Commission, is entitled to have his name placed again on all registers for which he may have been qualified, in the order named by section 3313 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 420.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 865	June 27, 1944, ch. 287, § 16, 58 Stat. 391.

The last 28 words of former section 865 relating to recertification and reappointments are omitted since under sections 3317 and 3318(a) certification and appointment follow from placing on registers.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 3320 of this title; title 22 section 1438.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3315. Registers; preference eligibles furloughed or separated

(a) A preference eligible who has been separated or furloughed without delinquency or misconduct, on request, is entitled to have his name placed on appropriate registers and employment lists for every position for which his qualifications have been established, in the order named by section 3313 of this title. This subsection applies to registers and employment lists maintained by the Civil Service Commission, an Executive agency, or the government of the District of Columbia.

(b) The Commission may declare a preference eligible who has been separated or furloughed without pay under section 7512 of this title to be entitled to the benefits of subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 420.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 864 (1st sentence).	June 27, 1944, ch. 287 § 15 (1st sentence), 58 Stat. 391.
(b)	5 U.S.C. 863 (2d proviso).	June 27, 1944, ch. 287, § 14 (2d proviso), 58 Stat. 391.

In subsection (a), the term "Executive agency" is substituted for "any agency or project of the Federal Government" on authority of former section 869. The last 28 words of the 1st sentence of former section 864 relating to recertification and reappointment are omitted since under sections 3317 and 3318(a) certification and appointment follow from placing on registers.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 3320 of this title; title 22 section 1438.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

[§ 3315a. Repealed. Pub. L. 93-416, § 22(c), Sept. 7, 1974, 88 Stat. 1150.]

Section, Pub. L. 89-488, § 6, July 4, 1966, 80 Stat. 253, as added Pub. L. 90-83 § 1(9)(A), Sept. 11, 1967, 81 Stat. 197, related to registration by the Civil Service Commission of employees receiving compensation for injuries for certification for appointment to vacant positions.

§ 3316. Preference eligibles; reinstatement

On request of an appointing authority, a preference eligible who has resigned or who has been dismissed or furloughed may be certified for, and appointed to, a position for which he is eligible in the competitive service, an Executive agency, or the government of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 421.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 862	June 27, 1944, ch. 287, § 13, 58 Stat. 390.

The word "authority" is substituted for "officer" in recognition of the several appointing authorities named in section 2105(a)(1).

The words "in the competitive service, an Executive agency, or the government of the District of Columbia" are substituted for "in the civil service, Federal, or District of Columbia, or in any establishment, agency, bureau, administration, project, or department, temporary or permanent" on authority of former section 869.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 3320 of this title; title 22 section 1438.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3317. Competitive service; certification from registers

(a) The Civil Service Commission shall certify enough names from the top of the appropriate register to permit a nominating or appointing authority who has requested a certificate of eligibles to consider at least three names for appointment to each vacancy in the competitive service.

(b) When an appointing authority, for reasons considered sufficient by the Commission, has three times considered and passed over a preference eligible who was certified from a register, certification of the preference eligible for appointment may be discontinued. However, the preference eligible is entitled to advance notice of discontinuance of certification.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 421.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 857 (1st sentence and 2d proviso).	June 27, 1944, ch. 287, § 8 (1st sentence and 2d proviso), 58 Stat. 389.

In subsection (a), the word "authority" is substituted for "officer" in recognition of the several appointing authorities named in section 2105(a)(1). The words "in the competitive service" have been added for clarity. Application of the section to the excepted service in the executive branch and to the government of the

District of Columbia, as provided in former section 858, is carried into section 3320.

In subsection (b), the word "thereafter" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3110, 3318, 3320 of this title; title 22 section 1438.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3318. Competitive service; selection from certificates

(a) The nominating or appointing authority shall select for appointment to each vacancy from the highest three eligibles available for appointment on the certificate furnished under section 3317(a) of this title, unless objection to one or more of the individuals certified is made to, and sustained by, the Civil Service Commission for proper and adequate reason under regulations prescribed by the Commission.

(b) An appointing authority who passes over a preference eligible on a certificate and selects an individual who is not a preference eligible shall file written reasons with the Commission for passing over the preference eligible. The Commission shall make these reasons a part of the record of the preference eligible. The Commission may require the submission of more detailed information in support of the passing over of the preference eligible. The Commission shall determine the sufficiency or insufficiency of the reasons submitted and shall send its findings to the appointing authority. The appointing authority shall comply with the findings of the Commission. The preference eligible or his representative, on request, is entitled to a copy of—

(1) the reasons submitted by the appointing authority; and

(2) the findings of the Commission.

(c) When three or more names of preference eligibles are on a reemployment list appropriate for the position to be filled, a nominating or appointing authority may appoint from a register of eligibles established after examination only an individual who qualifies as a preference eligible under section 2108(3)(C)-(G) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 421; Pub. L. 90-83, § 1(8), Sept. 11, 1967, 81 Stat. 197.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 633 (2)2.	Jan. 16, 1883, ch. 27, § 2(2)2, 22 Stat. 404.
	5 U.S.C. 857 (less 1st sentence, 2d proviso, and last sentence).	June 27, 1944, ch. 287, § 8 (less 1st sentence, 2d proviso, and last sentence), 58 Stat. 389. Aug. 14, 1953, ch. 485, § 2, 67 Stat. 582.
(c)	5 U.S.C. 864 (less 1st sentence).	June 27, 1944, ch. 287, § 15 (less 1st sentence), 58 Stat. 391.

The word "authority" is substituted for "officer" in recognition of the several appointing authorities named in section 2105(a)(1).

In subsection (a), the provisions of former section 633(2)2 are merged in the requirement of former section 857, since the certificate must be of the three highest on the register and the nominating or appointing employee may select one of the three.

In subsection (c), the prohibition in former section 864 is restated in positive form. The words "an individual who qualifies as a preference eligible under section 2108(3)(B)-(F)" are substituted for "ten-point preference eligibles".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1967—Subsec. (c). Pub. L. 90-83 substituted "section 2108(3)(C)-(G)" for "section 2108(3)(B)-(F)." See Reviser's Note under section 3305 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3320 of this title; title 22 section 1438.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3319. Competitive service; selection; members of family restriction

(a) When two or more members of a family are employed in the competitive service, another member of the same family is not eligible for appointment in the competitive service.

(b) Subsection (a) of this section does not apply to a preference eligible.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 421.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 641	Jan. 16, 1883, ch. 27, § 9, 22 Stat. 406.
(b)	5 U.S.C. 855 (less so much as relates to apportionment).	June 27, 1944, ch. 287, § 6 (less so much as relates to apportionment), 58 Stat. 389.

The section is restated for clarity, and to incorporate the exception contained in former section 855.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1438.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3320. Excepted service; government of the District of Columbia; selection

The nominating or appointing authority shall select for appointment to each vacancy in the excepted service in the executive branch and in the government of the District of Columbia from the qualified applicants in the same manner and under the same conditions required for the competitive service by sections 3308-3318 of this title. This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 422.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 858	June 27, 1944, ch. 287, § 9, 58 Stat. 389.
....	5 U.S.C. 869	June 27, 1944, ch. 287, § 20, 58 Stat. 391.

Former sections 858 and 869 are combined and restated for clarity and to conform to section 3318(a). The word "authority" is substituted for "officer" in recognition of the several appointing authorities named in section 2105(a)(1). The words "shall select for appointment to each vacancy in the expected service in the executive branch and in the government of the District of Columbia from the qualified applicants in the same manner and under the same conditions required for the competitive service by sections 3308-3318 of this title" are substituted for "In the unclassified Federal, and District of Columbia, civil service, and in all other positions and employment hereinbefore referred to in (c) of section 851 of this title . . . shall make selection from the qualified applicants in accordance with the provisions of this chapter". The reference to the excepted service "in the executive branch" is substituted for the exception of the legislative and judicial branches in former section 869. Former section 869 did not prohibit the application of those provisions of the Act of June 27, 1944, which relate to the competitive service in the legislative or judicial branch by reason of the specific provisions of section 311 of the Act of June 10, 1921, as amended (31 U.S.C. 52); 28 U.S.C. 602; and Executive Order No. 67 of June 13, 1895. The reference to appointments of postmasters is omitted from this section since those referred to are in the competitive service. The application of former section 869 to the remainder of the Act of June 27, 1944, is covered by the sections into which the remainder is carried (see Table I).

This section merely continues, and does not in any way change, the requirements in former section 858 relative to the selection of applicants for positions in the excepted service. Under this section, the Federal Bureau of Investigation and other agencies having positions in the excepted service will continue to fill those positions in the same manner that they have been filled under former section 858. Such excepted appointments are appointments authorized to be made without regard to the statutes, rules, and regulations governing appointments in the competitive service and this is not changed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

ASSISTANCE OF UNITED STATES CIVIL SERVICE COMMISSION IN DEVELOPING MERIT SYSTEM FOR DISTRICT OF COLUMBIA

Pub. L. 93-198, title VII, § 734, Dec. 24, 1973, 87 Stat. 823, authorized the United States Civil Service Commission to advise and assist the District of Columbia Mayor and Council in the further development of the merit system or systems required by the District of Columbia charter, which was approved on May 7, 1974, and authorized the Commission to enter into agreements with the District government to make available its registers of eligibles as a recruiting source to fill District positions as needed, with the costs of any specific services furnished by the Civil Service Commission to be compensated for under the provisions of section 685a of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 1234, 1438.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3321. Competitive service; probation; period of

The President may prescribe rules, which shall provide, as nearly as conditions of good administration warrant, that there shall be a period of probation before an appointment in the competitive service becomes absolute.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 422.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 633 (2)4	Jan. 16, 1883, ch. 27, § 2(2)4, 22 Stat. 404.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302. Wording is changed because in practice an appointment is not made after probation. The words "or employment" are omitted as included within "appointment".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

President's power to grant exceptions from provisions of this section, see section 3302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

§ 3322. Competitive service; temporary appointments after age 70

An individual who has reached his 70th birthday may be appointed to a position in the competitive service only on a temporary basis.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 422.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 638b (proviso).	June 27, 1956, ch. 452, § 302 (proviso), 70 Stat. 355.

The prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3323. Automatic separations; reappointment; reemployment of annuitants

(a) An individual who reaches the retirement age prescribed for automatic separation applicable to him may not be continued in the civil service or in the government of the District of Columbia. An individual separated on account of age under a statute or regulation providing for retirement on account of age is not eligible for appointment in the civil service or in the government of the District of Columbia. The President, when in his judgment the public interest so requires, may except an individual from this subsection by Executive order. This subsection does not apply to an individual named by a statute providing for the continuance of the individual in the civil service or in the government of the District of Columbia.

(b) Notwithstanding other statutes, an annuitant as defined by section 8331 of this title receiving annuity from the Civil Service Retirement and Disability Fund is not barred by reason of his retired status from employment in an appointive position for which he is qualified.

An annuitant so reemployed serves at the will of the appointing authority.

(c) Notwithstanding subsection (a) of this section, a Foreign Service officer retired under section 1001 or 1002 of title 22 or a Foreign Service staff officer or employee retired under section 1063 of title 22 is not barred by reason of his retired status from employment in a position in the civil service for which he is qualified. An annuitant so reemployed serves at the will of the appointing authority.

(d) Notwithstanding subsection (a) of this section, the Chief of Engineers of the Army, under section 569a of title 33, may employ a retired employee whose expert assistance is needed in connection with river and harbor or flood control works. There shall be deducted from the pay of an employee so reemployed an amount equal to the annuity or retired pay allocable to the period of actual employment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 422.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 715a	June 30, 1932, ch. 314, § 204, 47 Stat. 404.
(b)	5 U.S.C. 2263(a).	July 31, 1956, ch. 804, § 401 "Sec. 13(a)", 70 Stat. 757.
(c)	22 U.S.C. 915(c)	Sept. 8, 1960, Pub. L. 86-723, § 10(d), 74 Stat. 832.
(d)	33 U.S.C. 544a, 701*l*.	June 20, 1938, ch. 535, § 5, 52 Stat. 805.

In subsection (a), the words "On and after July 1, 1932" are omitted as executed. The words "heretofore or hereafter" are omitted as unnecessary. The words "in the civil service" are substituted for "civilian service in any branch or service of the United States Government" and "to any appointive office, position, or employment under the United States" in view of the definition of "civil service" in section 2101.

In subsection (b), the words "receiving annuity from the Civil Service Retirement and Disability Fund" are substituted for "heretofore or hereafter retired under this chapter". The word "authority" is substituted for "officer" in recognition of the several appointing authorities named in section 2105(a)(1).

In subsection (c), the words "Notwithstanding subsection (a) of this section" are substituted for "Notwithstanding the provisions of sections 62 and 715a of title 5" to reflect the codification of former section 715a in subsection (a) of this section and in view of the repeal of section 62 of title 5 by § 402(a)(7) of the Act of Aug. 19, 1964, Pub. L. 88-448, 78 Stat. 492. The words "heretofore or hereafter" and "hereafter" are omitted as unnecessary. The words "in a position in the civil service" are substituted for "in Federal Government service in any appointive position" in view of the definition of "civil service" in section 2101. The word "authority" is substituted for "officer" in recognition of the several appointing authorities named in section 2105(a)(1).

In subsection (d), the words "Notwithstanding subsection (a) of this section" are substituted for "The provisions of section 715a of title 5 shall not be so construed as to prevent" to reflect the codification of former section 715a in subsection (a) of this section, and to conform to the style of this section. The words "under section 569a of title 33" are substituted for "under agreement as authorized by sections 569a, 584a and 607a of title 33" on authority of the provision contained in section 569a of title 33. The word "employee" is coextensive with and substituted for "civilian employee" in view of the definition of "employee" in section 2105. The last sentence is restated for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Mandatory separation, see section 8335 of this title.

Section Referred to in Other Sections

This section is referred to in title 22 sections 2386, 2512, 2584.

Section Referred to in D.C. Code

This section is referred to in sections 31-696a, 31-728, 31-1403, 31-1542, 31-1603, 31-1623 of the District of Columbia Code.

§ 3324. Appointments at GS-16, 17, and 18

(a) An appointment to a position in GS-16, 17, or 18 may be made only on approval of the qualifications of the proposed appointee by the Civil Service Commission. This section does not apply to a position—

(1) provided for in section 5108(c)(2) of this title;

(2) to which appointment is made by the President;

(3) to which appointment is made by the Librarian of Congress; or

(4) the incumbent of which is paid from—

(A) appropriations for the Executive Office of the President under the heading "The White House Office", "Special Projects", "Council of Economic Advisers", "National Security Council", or "Office of Emergency Planning"; or

(B) funds appropriated to the President under the heading "Emergency Fund for the President" by the Treasury, Post Office, and Executive Office Appropriation Act, 1966, or a later statute making appropriations for the same purpose.

(b) The Commission may prescribe regulations necessary for the administration of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 422; Pub. L. 90-83, § 1(10), Sept. 11, 1967, 81 Stat. 197.)

Historical and Revision Notes 1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1105(i)	June 20, 1958, Pub. L. 85-462, § 10 "(i)", 72 Stat. 213.
		Sept. 13, 1960, Pub. L. 86-768, 74 Stat. 910.

In subsection (a), the words "in GS-16, 17, and 18" are substituted for "in grades 16, 17, and 18 of the General Schedule".

In subsection (a)(2), the words "by the President" are coextensive with and substituted for "by the President alone or by the President by and with the advice and consent of the Senate".

In subsection (a)(4)(A), the words "Office of Emergency Planning" are substituted for "Office of Defense Mobilization" on authority of 1958 Reorg. Plan No. 1, § 2(a), effective July 1, 1958, 72 Stat. 1799, as amended Aug. 26, 1958, Pub. L. 85-763, 72 Stat. 861, and Sept. 22, 1961, Pub. L. 87-296, 75 Stat. 630. Reference to "President's Advisory Committee on Government Organization" is omitted since the Committee was abolished by Executive Order No. 10917, February 10, 1961.

In subsection (a)(4)(B), the words " 'Emergency Fund for the President' by the Treasury, Post Office, and Executive Office Appropriation Act, 1966" are substituted for " 'Emergency Fund for the President, National Defense' by the General Government Matters Appropriation Act, 1959" to reflect the heading and title of the current appropriation Act.

Subsection (b) is added on authority of former sections 1072 and 1072a, which are carried into section 5115.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

This section amends 5 U.S.C. 3324(a)(4)(A) to correct typographical errors.

References in Text

The Treasury, Post Office, and Executive Office Appropriation Act, 1966, referred to in subsec. (a)(4)(B), is Pub. L. 89-57, June 30, 1965, 79 Stat. 196. For classification of this Act to the Code, see Tables volume.

Effective Date of 1967 Amendment

Amendment by Pub. L. 90-83 effective as of Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

Transfer of Functions

The Office of Emergency Preparedness, formerly the Office of Emergency Planning, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

Cross References

Antidiscrimination in employment in administration of this section, see section 7154 of this title.

Section Referred to in Other Sections

This section is referred to in section 7154 of this title and in title 10 sections 4540, 7212, 9540.

§ 3325. Appointments to scientific and professional positions

(a) Positions established under section 3104 of this title are in the competitive service. However, appointments to the positions are made without competitive examination on approval of the qualifications of the proposed appointee by the Civil Service Commission or its designee for this purpose.

(b) This section does not apply to positions established under section 3104(a)(7) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 423.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 1162(a).	Oct. 4, 1961, Pub. L. 87-367, § 202 "Sec. 2(a)", 75 Stat. 790.
(b)	5 U.S.C. 1161 (g) (2d sentence).	Oct. 11, 1962, Pub. L. 87-793, § 1001(a)(2) "(g) (2d sentence)", 76 Stat. 863.

In subsection (a), the words "or its designee" are substituted for "or such officers or agents as the Commission may designate".

For repeal of the Act of Aug. 1, 1947, ch. 433, 61 Stat. 715, as amended, see revision note for section 3104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3326. Appointments of retired members of the armed forces to positions in the Department of Defense

(a) For the purpose of this section, "member" and "Secretary concerned" have the meanings given them by section 101 of title 37.

(b) A retired member of the armed forces may be appointed to a position in the civil service in or under the Department of Defense (including a nonappropriated fund instrumentality under the jurisdiction of the armed forces) during the period of 180 days immediately after his retirement only if—

(1) the proposed appointment is authorized by the Secretary concerned or his designee for the purpose, and, if the position is in the competitive service, after approval by the Civil Service Commission;

(2) the minimum rate of basic pay for the position has been increased under section 5303 of this title; or

(3) a state of national emergency exists.

(c) A request by appropriate authority for the authorization, or the authorization and approval, as the case may be, required by subsection (b)(1) of this section shall be accompanied by a statement which shows the actions taken to assure that—

(1) full consideration, in accordance with placement and promotion procedures of the department concerned, was given to eligible career employees;

(2) when selection is by other than certification from an established civil service register, the vacancy has been publicized to give interested candidates an opportunity to apply;

(3) qualification requirements for the position have not been written in a manner designed to give advantage to the retired member; and

(4) the position has not been held open pending the retirement of the retired member.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 423.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 3101 (as applicable to 5 U.S.C. 3103).	Aug. 19, 1964, Pub. L. 88-448, § 101 (as applicable to § 204), 78 Stat. 484.
(b), (c)	5 U.S.C. 3103	Aug. 19, 1964, Pub. L. 88-448, § 204, 78 Stat. 487.

In subsection (a), the definition of "armed forces" is omitted as unnecessary in view of the definition in section 2101.

In subsection (b), the words "position in the civil service" are substituted for "civilian office" in view of the definition of "civil service" in section 2101. The words "(including a nonappropriated fund instrumentality under the jurisdiction of the armed forces)" are added on authority of former section 3101(3).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

[§ 3327. Repealed. Pub. L. 91-375, § 6(c)(7)(A), Aug. 12, 1970, 84 Stat. 776.]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424, prescribed standards for determination of qualifications of postmasters: experience in postal field service, seniority, length of service, level of difficulty and responsibility of work, attendance, awards and commendations, and performance rating. See section 1001 of Title 39, Postal Service.

EFFECTIVE DATE OF REPEAL

Repeal effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

SUBCHAPTER II—OATH OF OFFICE

§ 3331. Oath of office

An individual, except the President, elected or appointed to an office of honor or profit in the civil service or uniformed services, shall take the following oath: "I, AB, do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion; and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God." This section does not affect other oaths required by law.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 16	R.S. § 1757. May 13, 1884, ch. 46, §§ 2, 3, 23 Stat. 22.

All but the quoted language in R.S. § 1757 is omitted as obsolete since R.S. § 1757 was originally an alternative oath to the oath prescribed in R.S. § 1756 which oath was repealed by the Act of May 13, 1884, ch. 46, § 2, 23 Stat. 22. The words "An individual, except the President, . . . in the civil service or uniformed services" are substituted for "any person . . . either in the civil, military, or naval service, except the President of the United States". The second sentence of former section 16 is changed to read, "This section does not affect other oaths required by law.".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 2903, 2904, 2905, 2906, 3332, 5792 of this title; title 2 section 64-1; title 10 sections 591, 5792; title 14 sections 273, 797; title 22 section 2504; title 50 app. section 455.

§ 3332. Officer affidavit; no consideration paid for appointment

An officer, within 30 days after the effective date of his appointment, shall file with the oath of office required by section 3331 of this title an affidavit that neither he nor anyone acting in his behalf has given, transferred, promised, or paid any consideration for or in the expectation or hope of receiving assistance in securing the appointment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 21a	Dec. 11, 1926, ch. 4, § 1, 44 Stat. 918. Mar. 2, 1927, ch. 284, 44 Stat. 1346. Sept. 23, 1950, ch. 1010, § 10, 64 Stat. 987.

The section is restated for clarity and conciseness. The term "officer" is coextensive with and substituted for "Each individual appointed hereafter as a civil officer of the United States by the President, by and with the advice and consent of the Senate, or by the President alone, or by a court of law, or by the head of a department" in view of the definition of "officer" in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Withholding of pay from officer until affidavit required under this section is filed, see section 5507 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5507 of this title.

§ 3333. Employee affidavit; loyalty and striking against the Government

(a) Except as provided by subsection (b) of this section, an individual who accepts office or employment in the Government of the United States or in the government of the District of Columbia shall execute an affidavit within 60 days after accepting the office or employment that his acceptance and holding of the office or employment does not or will not violate section 7311 of this title. The affidavit is prima facie evidence that the acceptance and holding of office or employment by the affiant does not or will not violate section 7311 of this title.

(b) An affidavit is not required from an individual employed by the Government of the United States or the government of the District of Columbia for less than 60 days for sudden emergency work involving the loss of human life or the destruction of property. This subsection does not relieve an individual from liability for violation of section 7311 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118q	Aug. 9, 1955, ch. 690, § 2, 69 Stat. 624.
....	[Uncodified]	June 29, 1956, ch. 479, § 3 (as applicable to the Act of Aug. 9, 1955, ch. 690, § 2, 69 Stat. 624), 70 Stat. 453.

The section is restated for clarity and to conform to the style of section 3332.

In subsection (a), the words "after August 9, 1955" are omitted as executed. The words "if the affidavit is executed prior to acceptance of such office or employment" are omitted as unnecessary. The words "From and after July 1, 1956", appearing in the Act of June 29, 1956, are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the

Section Referred to in Other Sections

This section is referred to in title 39 section 410.

SUBCHAPTER III—DETAILS

Subchapter Referred to in Other Sections

This subchapter is referred to in title 42 section 6635.

§ 3341. Details; within Executive or military departments

(a) The head of an Executive department or military department may detail employees among the bureaus and offices of his department, except employees who are required by law to be exclusively engaged on some specific work.

(b) Details under subsection (a) of this section may be made only by written order of the head of the department, and may be for not more than 120 days. These details may be renewed by written order of the head of the department, in each particular case, for periods not exceeding 120 days.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 424.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 38	R.S. § 166. May 28, 1896, ch. 252, § 3, 29 Stat. 179.

The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101.

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

The word "detail" is coextensive with and is substituted for "alter the distribution". The word "clerks" is omitted as included in "employees". The words "as he may find it necessary and proper to do" and "from time to time" are omitted as surplusage.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Internal Revenue field personnel detailed to duty in District of Columbia, see section 7803 of Title 26, Internal Revenue Code.

Railroad Retirement Board employees, see section 362 of Title 45, Railroads.

[§ 3342. Repealed. Pub. L. 89-762, § 1(a), Nov. 5, 1966, 80 Stat. 1312.]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425, prohibited the details of employees from the field service to the Executive department in the District of Columbia except for temporary duty, details specifically provided for by law, or the detailing of one employee from the Bureau of Customs for duty in the District of Columbia.

§ 3343. Details; to international organizations

(a) For the purpose of this section—

(1) "agency", "employee", and "international organization" have the meanings given them by section 3581 of this title; and

(2) "detail" means the assignment or loan of an employee to an international organization without a change of position from the agency by which he is employed to an international organization.

(b) The head of an agency may detail, for a period of not more than 5 years, an employee of his agency to an international organization which requests services, except that under special circumstances, where the President determines it to be in the national interest, he may extend the 5-year period for up to an additional 3 years.

(c) An employee detailed under subsection (b) of this section is deemed, for the purpose of preserving his allowances, privileges, rights, seniority, and other benefits, an employee of the agency from which detailed, and he is entitled to pay, allowances, and benefits from funds available to that agency. The authorization and payment of these allowances and other benefits from appropriations available therefor is deemed to comply with section 5536 of this title.

(d) Details may be made under subsection (b) of this section—

(1) without reimbursement to the United States by the international organization; or

(2) with agreement by the international organization to reimburse the United States for all or part of the pay, travel expenses, and allowances payable during the detail, and the reimbursement shall be credited to the appropriation, fund, or account used for paying the amounts reimbursed.

(e) An employee detailed under subsection (b) of this section may be paid or reimbursed by an international organization for allowances or expenses incurred in the performance of duties required by the detail, without regard to section 209 of title 18.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425; Pub. L. 91-175, pt. V, § 502(a), Dec. 30, 1969, 83 Stat. 825.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 2331	Aug. 28, 1958, Pub. L. 85-795, § 2, 72 Stat. 959.
(b)-(e)	5 U.S.C. 2332	Aug. 28, 1958, Pub. L. 85-795, § 3, 72 Stat. 959.

In subsection (a)(2), the words "without a change of position from the agency by which he is employed to an international organization" are substituted for "without the employee's transfer from the Federal agency by which he is employed" to eliminate the necessity of carrying into this section the definition of "transfer" appearing in former section 2331(5).

In subsection (e), the words "section 209 of title 18" are substituted for "section 1914 of title 18" on authority of the Act of Oct. 23, 1962, Pub. L. 87-849, § 2, 76 Stat. 1126.

Other definitions appearing in former section 2331 are omitted from this section as inappropriate but are carried into section 3581.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1969—Subsec. (b). Pub. L. 91-175 substituted "5" for "3" and added provision enabling President, regarding an agency employee detailed to an international organization for 5 years, to extend the 5-year period for up to an additional 3 years.

Details to International Organizations

For provisions concerning the providing for details of federal employees to international organizations and the delegation of Presidential authority, concerning the extension of a detail under this section, to the Secretary of State, see Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, set out as a note under section 3584 of this title.

Cross References

Authority of President to prescribe regulations necessary to carry out this section, see section 3584 of this title.

Section Referred to in Other Sections

This section is referred to in sections 3582 and 3584 of this title.

§ 3344. Details; hearing examiners

An agency as defined by section 551 of this title which occasionally or temporarily is insufficiently staffed with hearing examiners appointed under section 3105 of this title may use hearing examiners selected by the Civil Service Commission from and with the consent of other agencies.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 1010 (4th sentence).	June 11, 1946, ch. 324, § 11 (4th sentence), 60 Stat. 244.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Additional requirements imposed by statute or otherwise recognized by law not limited or repealed by this section, see section 559 of this title.

Civil Service Commission, investigations, reports, and regulations for purposes of this section as relating to hearing examiners, see section 1305 of this title.

Subsequent statutes to be held to supersede or modify this section only to the extent that they do so expressly, see section 559 of this title.

Section Referred to in Other Sections

This section is referred to in sections 559, 1305 of this title; title 15 section 1715; title 29 section 661; title 42 section 2000e-4.

§ 3345. Details; to office of head of Executive or military department

When the head of an Executive department or military department dies, resigns, or is sick or absent, his first assistant, unless otherwise directed by the President under section 3347 of this title, shall perform the duties of the office until a successor is appointed or the absence or sickness stops.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 425.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 4	R.S. § 177.

The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101.

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Additional pay prohibited for officer performing duties of vacant office as authorized by this section, see section 5535 of this title.

Agricultural Department, application to Under Secretary, see section 2211 of Title 7, Agriculture.

Section Referred to in Other Sections

This section is referred to in sections 3347, 3348, 3349, 5535 of this title; title 7 section 2211; title 28 section 508.

§ 3346. Details; to subordinate offices

When an officer of a bureau of an Executive department or military department, whose appointment is not vested in the head of the department, dies, resigns, or is sick or absent, his first assistant, unless otherwise directed by the President under section 3347 of this title, shall

perform the duties of the office until a successor is appointed or the absence or sickness stops.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 5	R.S. § 178.

The words "his first assistant" are substituted for "the assistant or deputy of such chief or of such officer, or if there be none, then the chief clerk of such bureau". A chief of a bureau is an officer within the meaning of this section. The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101.

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Additional pay prohibited for officer performing duties of vacant office as authorized by this section, see section 5535 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3347, 3348, 3349, 5535 of this title.

§ 3347. Details; Presidential authority

Instead of a detail under section 3345 or 3346 of this title, the President may direct the head of another Executive department or military department or another officer of an Executive department or military department, whose appointment is vested in the President, by and with the advice and consent of the Senate, to perform the duties of the office until a successor is appointed or the absence or sickness stops. This section does not apply to a vacancy in the office of Attorney General.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 6	R.S. § 179.

The words "in his discretion", "vacant", and "incumbent" are omitted as surplusage. The words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101. As used, the word "an" is coextensive with and substituted for "either".

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EXECUTIVE ORDER NO. 9967

Ex. Ord. No. 9967, June 12, 1948, 13 F.R. 3249, formerly set out as a note under this section, which related to the designation of officers of the Department of Agriculture to act as Secretary of Agriculture, was superseded by Ex. Ord. No. 10481, Aug. 15, 1953, 18 F.R. 4944, formerly set out as a note under this section.

EXECUTIVE ORDER NO. 10148

Ex. Ord. No. 10148, Aug. 5, 1950, 15 F.R. 5067, which related to the designation of officers of the Department of Commerce to act as Secretary of Commerce, was superseded by Ex. Ord. 11388, Jan. 15, 1968, 33 F.R. 563, set out as a note under this section.

EXECUTIVE ORDER NO. 10481

Ex. Ord. No. 10481, Aug. 15, 1953, 18 F.R. 4944, formerly set out as a note under this section, which provided for the designation of certain officers of the Department of Agriculture to act as Secretary of Agriculture, was revoked by Ex. Ord. No. 11793, July 10, 1974, 39 F.R. 25631, set out as a note under this section.

EX. ORD. NO. 10513. DESIGNATION OF OFFICERS TO ACT AS SECRETARY OF LABOR

Ex. Ord. No. 10513, Jan. 19, 1954, 19 F.R. 369, provided:

I hereby authorize and direct the Assistant Secretaries of Labor and the Solicitor of Labor, in the order designated as hereinafter provided, to perform the duties of the office of the Secretary of Labor in case of the absence, sickness, resignation, or death of both the Secretary of Labor and the Under Secretary of Labor.

The Assistant Secretaries of Labor and the Solicitor of Labor shall act as Secretary of Labor as herein provided (1) in such order as the Secretary of Labor (or the Under Secretary when acting as Secretary) may by order designate from time to time, or (2) if no such designation order is in effect at the time, in the order of the respective dates of their commissions, or in the event that two or more of their commissions bear the same date, in the order in which they shall have taken their oath of office.

This order supersedes Executive Order No. 9968 of June 17, 1948, entitled "Designation of Certain Officers To Act as Secretary of Labor."

EXECUTIVE ORDER NO. 10753

Ex. Ord. No. 10753, Feb. 18, 1958, 23 F.R. 1107, which related to the designation of officers of the Department of the Interior to act as Secretary of the Interior, was superseded by Ex. Ord. No. 11487, Oct. 6, 1969, 34 F.R. 15593, set out as a note under this section.

EX. ORD. NO. 10820. ORDER OF SUCCESSION—DEPARTMENT OF DEFENSE

Ex. Ord. No. 10820, May 18, 1959, 24 F.R. 4045, provided:

PART I—SUCCESSION TO THE POSITION OF SECRETARY OF DEFENSE

In the event of the death, disability, or absence of the Secretary of Defense, the following-designated officers, in the Department of Defense, shall succeed to the position of, and act as, Secretary of Defense in the order indicated:

1. Deputy Secretary of Defense.
2. Secretary of the Army.
3. Secretary of the Navy.
4. Secretary of the Air Force.
5. Director of Defense Research and Engineering.
6. Assistant Secretaries of Defense and the General Counsel of the Department of Defense, in the order fixed by their length of service as such.
7. Under Secretaries of the Army, Navy, and Air Force, in the order fixed by their length of service as such.
8. Assistant Secretaries of the Army, Navy, and Air Force, in the order fixed by their length of service as such.

Precedence within a particular group between or among two or more officers having the same date of appointment shall be as determined by the Secretary of Defense at the time of appointment.

PART II—SUCCESSION TO THE POSITION OF SECRETARY OF THE ARMY

In the event of the death, disability, or absence of the Secretary of the Army, the following-designated officers shall succeed to the position of, and act as, Secretary of the Army in the order indicated:

1. Under Secretary of the Army.
2. Assistant Secretaries of the Army, in the order fixed by their length of service as such.
3. Chief of Staff, United States Army.
4. Vice Chief of Staff, United States Army.
5. Commanding General, Continental Army Command.

PART III—SUCCESSION TO THE POSITION OF SECRETARY OF THE NAVY

In the event of the death, disability, or absence of the Secretary of the Navy, the following-designated officers shall succeed to the position of, and act as, Secretary of the Navy in the order indicated:

1. Under Secretary of the Navy.
2. Assistant Secretaries of the Navy, in the order prescribed by the Secretary of the Navy, or if no order is prescribed by the Secretary, then in the order in which they have taken office as Assistant Secretaries.
3. Chief of Naval Operations.
4. Vice Chief of Naval Operations.

PART IV—SUCCESSION TO THE POSITION OF SECRETARY OF THE AIR FORCE

In the event of the death, disability, or absence of the Secretary of the Air Force, the following-designated officers shall succeed to the position of, and act as, Secretary of the Air Force in the order indicated:

1. Under Secretary of the Air Force.
2. Assistant Secretaries of the Air Force, in the order fixed by their length of service as such.
3. Chief of Staff, United States Air Force.
4. Vice Chief of Staff, United States Air Force.
5. The Senior Deputy Chief of Staff who is not absent or disabled.
6. Commander, Air University.

PART V—VARIATIONS IN THE ORDER OF SUCCESSION

Without regard to any other part of this order, except Part VI, the President, or the person acting as President under section 19 of title 3 of the United States Code, may, in the event of the death, disability, or absence of the Secretary of Defense, appoint any officer designated in Part I of this order to succeed to the position of, and act as, Secretary of Defense; and may, in the event of the death, disability, or absence of the Secretary of a military department appoint any officer designated in the part of this order which relates to the order of succession in the department concerned to succeed to the position of, and act as, the Secretary of that department.

PART VI—TEMPORARY NATURE OF SUCCESSION

Succession to office pursuant to this order shall be on a temporary or interim basis and shall not have the effect of vacating the statutory position held by the successor.

PART VII—REVOCATION OF PRIOR EXECUTIVE ORDERS

Executive Order No. 10495 of October 14, 1953, and Executive Order No. 10669 of May 18, 1956, are hereby revoked.

DWIGHT D. EISENHOWER.

EX. ORD. NO. 10839. ORDER OF SUCCESSION—DEPARTMENT OF STATE

Ex. Ord. No. 10839, Sept. 30, 1959, 24 F.R. 7339, provided:

In case of the death, resignation, absence, or sickness of the Secretary of State and the Under Secretary of State, the following-designated officers of the Department of State shall, in the order of succession indicated, act as Secretary of State until a successor is appointed or until the absence or sickness of the incumbent shall cease:

1. Under Secretary of State for Political Affairs or Under Secretary of State for Economic Affairs, as may be designated by the President pursuant to the act of July 30, 1959, 73 Stat. 266.
2. Deputy Under Secretaries of State, (a) in such order of succession as the Secretary of State (or the Under Secretary of State when acting as Secretary) may by order designate from time to time, or (b) if no such designation order is in effect at the time, in the order of the lengths of service as Deputy Under Secretaries.
3. Assistant Secretaries of State, (a) in such order of succession as the Secretary of State (or the Under Secretary of State when acting as Secretary) may by order designate from time to time, or (b) if no such designation order is in effect at the time, in the order of the lengths of service as Assistant Secretaries.

The President may at any time, in pursuance of law but without regard to the foregoing provisions of this order, direct that an officer specified by the President shall act as Secretary of State.

Executive Order No. 10791 of November 28, 1958, is hereby superseded.

DWIGHT D. EISENHOWER.

EXECUTIVE ORDER NO. 10941

Ex. Ord. No. 10941, May 16, 1961, 26 F.R. 4277, formerly set out as a note under this section, which provided for the order of succession in the Treasury Department, was revoked by Ex. Ord. No. 11680, Aug. 21, 1972, 37 F.R. 16907, formerly set out as a note under this section.

EX. ORD. NO. 11274. ORDER OF SUCCESSION—DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Ex. Ord. No. 11274, Mar. 30, 1966, 31 F.R. 5243, provided:

By virtue of the authority vested in me by Section 179 of the Revised Statutes (5 U.S.C. 6) [now this section] and Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

1. In the event of a vacancy in the Office of the Secretary of Housing and Urban Development or during the absence or disability of the Secretary, the Under Secretary shall act as Secretary of Housing and Urban Development.

2. During any period when, by reason of absence, disability, or vacancy in office, neither the Secretary nor the Under Secretary is available to exercise the powers or perform the duties of the Office of the Secretary, an Assistant Secretary or the General Counsel, in such order as the Secretary may from time to time

prescribe, shall act as Secretary of Housing and Urban Development. If no such order of succession is in effect at that time, then they shall act in the order in which they shall have taken office as Assistant Secretaries or General Counsel.

LYNDON B. JOHNSON.

EX. ORD. NO. 11313. PERFORMANCE OF DUTIES OF POSTMASTER GENERAL BY CERTAIN OFFICERS

Ex. Ord. No. 11313, Oct. 15, 1966, 31 F.R. 13417, provided:

By virtue of the authority vested in me by Section 3347 of Title 5 of the United States Code [this section] and Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. In the event of a vacancy in the office of Postmaster General or during the absence or disability of the Postmaster General, the Deputy Postmaster General shall act as Postmaster General.

SEC. 2. During any period when, by reason of absence, disability, or vacancy in office, neither the Postmaster General nor the Deputy Postmaster General is available to exercise the powers or perform the duties of the office of Postmaster General, an Assistant Postmaster General or the General Counsel of the Post Office Department, in such order as the Postmaster General may from time to time prescribe in writing, shall act as Postmaster General. If no such order of succession is in effect at that time, they shall act as Postmaster General in the order in which they shall have taken office as Assistant Postmasters General or General Counsel.

SEC. 3. The following are hereby superseded:

(1) Executive Order No. 10154 of August 22, 1950.
(2) Executive Order No. 10558 of September 8, 1954.
(3) Executive Order No. 10686 of November 1, 1956.

LYNDON B. JOHNSON.

EXECUTIVE ORDER NO. 11388

Ex. Ord. No. 11388, Jan. 15, 1968, 33 F.R. 563, formerly set out as a note under this section, which related to the designation of officers of the Department of Commerce to act as Secretary of Commerce, was superseded by Ex. Ord. No. 11880, Oct. 2, 1975, 40 F.R. 46089, set out as a note under this section.

EX. ORD. NO. 11487. DESIGNATION OF OFFICERS OF THE DEPARTMENT OF THE INTERIOR TO ACT AS SECRETARY OF THE INTERIOR

Ex. Ord. No. 11487, Oct. 6, 1969, 34 F.R. 15593, provided:

By virtue of the authority vested in me by section 3347 of title 5 of the United States Code [this section] and section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. During any period when by reason of absence, disability, or vacancy in office, neither the Secretary of the Interior nor the Under Secretary of the Interior is available to exercise the powers or perform the duties of the office of Secretary, an Assistant Secretary of the Interior or the Solicitor of the Department of the Interior, in such order as the Secretary of the Interior may from time to time prescribe, shall act as Secretary. If no such order of succession is in effect at that time, they shall act as Secretary in the order in which they shall have taken office as Assistant Secretaries or Solicitor.

SEC. 2. This order supersedes Executive Order No. 10753 of February 15, 1958, entitled "Designation of certain officers of the Department of the Interior to act as Secretary of the Interior."

RICHARD NIXON.

EXECUTIVE ORDER NO. 11680

Ex. Ord. No. 11680, Aug. 21, 1972, 37 F.R. 16907, formerly set out as a note under this section, which provided for the order of succession in the Treasury Department, was revoked by Ex. Ord. No. 11822, Dec. 10, 1974, 39 F.R. 43275, set out as a note under this section.

EXECUTIVE ORDER NO. 11793

Ex. Ord. No. 11793, July 10, 1974, 39 F.R. 25631, formerly set out as a note under this section, which provided for the designation of certain officers of the Agriculture Department to act as Secretary of Agriculture, was revoked by Ex. Ord. No. 11957, Jan. 13, 1977, 42 F.R. 3295, set out as a note under this section.

EX. ORD. NO. 11822. DESIGNATION OF OFFICERS OF THE DEPARTMENT OF THE TREASURY TO ACT AS SECRETARY OF THE TREASURY

Ex. Ord. No. 11822, Dec. 10, 1974, 39 F.R. 43275, provided:

By virtue of the authority vested in me by section 3347 of title 5 [this section] and section 301 of title 3 of the United States Code and as President of the United States, it is ordered as follows:

SECTION 1. During any period when, by reason of absence, disability, or vacancy in office, either the Secretary of the Treasury or his Deputy Secretary is not available to exercise the powers or perform the duties of the office of Secretary, an officer from the Department of the Treasury appointed by the President—by and with the advice and consent of the Senate, in such order as the Secretary of the Treasury may from time to time prescribe—shall act as Secretary until the absence or the disability of the incumbent shall cease, or until a successor is appointed. If no such order of succession is in effect at that time, then such officers shall act as Secretary in the descending order of rank, as established by their offices being listed in sections 5314, 5315 or 5316 of title 5 of the United States Code and, at each level of the Executive Schedule, in the order which they shall have taken the oath as such officers.

SEC. 2. Executive Order No. 11680 of August 21, 1972, entitled "Designation of Certain Officers to Act as Secretary of the Treasury" is hereby revoked.

GERALD R. FORD.

EX. ORD. NO. 11880. DESIGNATION OF OFFICERS OF THE DEPARTMENT OF COMMERCE TO ACT AS SECRETARY OF COMMERCE

Ex. Ord. No. 11880, Oct. 2, 1975, 40 F.R. 46089, provided:

By virtue of the authority vested in me by section 3347 of Title 5 of the United States Code and section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. During any period when, by reason of absence, disability or vacancy in office, both the Secretary of Commerce and the Under Secretary of Commerce are not available to exercise the powers or perform the duties of the Office of Secretary, an Assistant Secretary of Commerce, the General Counsel of the Department of Commerce, or an officer of the Department of Commerce appointed by the President with the advice and consent of the Senate in such order as the Secretary of Commerce may from time to time prescribe, shall act as Secretary. If no such order of succession is in effect at that time, an Assistant Secretary or the General Counsel shall act as Secretary in the order in which they shall have taken office as Assistant Secretaries or General Counsel.

SEC. 2. This Order supersedes Executive Order No. 11388 of January 15, 1968.

GERALD R. FORD.

EX. ORD. NO. 11957. DESIGNATION OF CERTAIN OFFICERS OF THE DEPARTMENT OF AGRICULTURE TO ACT AS SECRETARY OF AGRICULTURE.

Ex. Ord. No. 11957, Jan. 13, 1977, 42 F.R. 3295, provided:

By virtue of the authority vested in me by Section 3347 of Title 5 [this section] and section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. During any period when, by reason of absence, disability, or vacancy in office, both the Secretary of Agriculture and the Deputy Secretary of Agriculture are not available to exercise the powers or perform the duties of the Office of Secretary, the officers from the Department of Agriculture whose appointments are vested in the President, by and with the advice and consent of the Senate, shall act as Secretary in such order as the Secretary of Agriculture may from time to time prescribe. If no such order of succession is in effect at that time, then such officers shall act as Secretary in the descending order of rank, as established by the listing of their offices in Sections 5314, 5315 or 5316 of Title 5 of the United States Code and, at each level of the Executive Schedule, in the order in which they shall have taken oath as such officers.

SEC. 2. Executive Order No. 11793 of July 10, 1974, is hereby revoked.

GERALD R. FORD.

CROSS REFERENCES

Additional pay prohibited for officer performing duties of vacant office as authorized by this section, see section 5535 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3345, 3346, 3348, 5535 of this title; title 10 sections 3017, 5036, 8017.

§ 3348. Details; limited in time

A vacancy caused by death or resignation may be filled temporarily under section 3345, 3346, or 3347 of this title for not more than 30 days.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 7	R.S. § 180. Feb. 6, 1891, ch. 113, 26 Stat. 733.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3349. Details; to fill vacancies; restrictions

A temporary appointment, designation, or assignment of one officer to perform the duties of another under section 3345 or 3346 of this title may not be made otherwise than as provided by those sections, except to fill a vacancy occurring during a recess of the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 8	R.S. § 181.

The prohibition is restated in positive form.

This section was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER IV—TRANSFERS

§ 3351. Preference eligibles; transfer; physical qualifications; waiver

In determining qualifications of a preference eligible for transfer to another position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426; Pub. L. 94-183, § 2(4), Dec. 31, 1975, 89 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 854 (1st 2 sentences, so much as relates to transfer).	June 27, 1944, ch. 287, § 5 (1st 2 sentences, so much as relates to transfer), 58 Stat. 388.

The section is restated to conform to section 3312.

The words "in the competitive service, an Executive agency, or the government of the District of Columbia" are added on authority of former sections 851, 858, and 869, which are carried into this title. The last sentence is added on authority of former section 869.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Pub. L. 94-183 deleted ", except an appointment made under section 3311 of title 39" which followed "or made with the advice and consent of, the Senate".

CROSS REFERENCES

Definition of preference eligible, see section 2108 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1438.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

SUBCHAPTER V—PROMOTION

§ 3361. Promotion; competitive service; examination

An individual may be promoted in the competitive service only if he has passed an examination or is specifically excepted from examination under section 3302 of this title. This sec-

tion does not take from the President any authority conferred by section 3301 of this title that is consistent with the provisions of this title governing the competitive service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 638 (as applicable to promotion).	Jan. 16, 1883, ch. 27, § 7 (as applicable to promotion), 22 Stat. 406.

The words "That after the expiration of six months from the passage of this act" are omitted as executed. The words "in the competitive service" are substituted for "in either of the said classes now existing, or that may be arranged hereunder pursuant to said rules" because of the definition of "competitive service" in section 2102. In the second sentence, the words "the provisions of this title governing the competitive service" are substituted for "this act".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3362. Promotion; effect of incentive award

An agency, in qualifying and selecting an employee for promotion, shall give due weight to an incentive award under chapter 45 of this title. For the purpose of this section, "agency" and "employee" have the meanings given them by section 4501 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 426.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2123 (f).	Sept. 1, 1954, ch. 1208, § 304(f), 68 Stat. 1113.

The word "incentive" is added for clarification. The second sentence is added on authority of former section 2122, which is carried into section 4501.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3363. Preference eligibles; promotion; physical qualifications; waiver

In determining qualifications of a preference eligible for promotion to another position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

This section does not apply to an appointment required by Congress to be confirmed by, or made with the advice and consent of, the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 427; Pub. L. 94-183, § 2(5), Dec. 31, 1975, 89 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 854 (1st 2 sentences, so much as relates to promotion).	June 27, 1944, ch. 287, § 5 (1st 2 sentences, so much as relates to promotion), 58 Stat. 388.

The section is restated to conform to section 3312.

The words "in the competitive service, an Executive agency, or the government of the District of Columbia" are added on authority of former sections 851, 858, and 869, which are carried into this title. The last sentence is added on authority of former section 869.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Pub. L. 94-183 deleted ", except an appointment made under section 3311 of title 39" which followed "or made with the advice and consent of, the Senate".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1438.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

[§ 3364. Repealed. Pub. L. 94-183, § 2(6), Dec. 31, 1975, 89 Stat. 1057.]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 427, related to promotion to the regular force of substitute employees in the postal field service.

SUBCHAPTER VI—ASSIGNMENTS TO AND FROM STATES

§ 3371. Definitions

For the purpose of this subchapter—

(1) "State" means—

(A) a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and a territory or possession of the United States; and

(B) an instrumentality or authority of a State or States as defined in subparagraph (A) of this paragraph (1) and a Federal-State authority or instrumentality; and

(2) "local government" means—

(A) any political subdivision, instrumentality, or authority of a State or States as defined in subparagraph (A) of paragraph (1);

(B) any general or special purpose agency of such a political subdivision, instrumentality, or authority; and

(C) any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village as defined in the Alaska Native Claims Settlement Act (85 Stat. 688), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians and includes any tribal organization as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act.

(Added Pub. L. 91-648, title IV, § 402(a), Jan. 5, 1971, 84 Stat. 1920, and amended Pub. L. 93-638, title I, § 105(a), Jan. 4, 1975, 88 Stat. 2208.)

REFERENCES IN TEXT

The Alaska Native Claims Settlement Act (85 Stat. 688), referred to in par. (2)(C), is classified to chapter 33 (§ 1601 et seq.) of Title 43, Public Lands.

Section 4(c) of the Indian Self-Determination and Education Assistance Act, referred to in par. (2)(C), is classified to section 450b(c) of Title 25, Indians.

AMENDMENTS

1975—Par. (2)(C). Pub. L. 93-638 added par. (2)(C).

EFFECTIVE DATE

Section 404 of Pub. L. 91-648 provided that: "This title [which enacted this subchapter and repealed sections 1881 to 1888 of Title 7, section 869b of Title 20, and section 246(f) of Title 42 (less applicability to commissioned officers of the Public Health Service)] shall become effective sixty days after the date of enactment of this Act [Jan. 5, 1971]."

DECLARATION OF PURPOSE

Section 401 of Pub. L. 91-648 provided that: "The purpose of this title [which enacted this subchapter and repealed sections 1881 to 1888 of Title 7, section 869b of Title 20, and section 246(f) of Title 42 (less applicability to commissioned officers of the Public Health Service)] is to provide for the temporary assignment of personnel between the Federal Government and State and local governments and institutions of higher education."

§ 3372. General provisions

(a) On request from or with the concurrence of a State or local government, and with the consent of the employee concerned, the head of an executive agency may arrange for the assignment of—

(1) an employee of his agency to a State or local government; and

(2) an employee of a State or local government to his agency;

for work of mutual concern to his agency and the State or local government that he determines will be beneficial to both. The period of an assignment under this subchapter may not exceed two years. However, the head of an executive agency may extend the period of assignment for not more than two additional years.

(b) This subchapter is authority for and applies to the assignment of—

(1) an employee of an executive agency to an institution of higher education; and

(2) an employee of an institution of higher education to an executive agency.

(Added Pub. L. 91-648, title IV, § 402(a), Jan. 5, 1971, 84 Stat. 1921.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 25 section 450i.

§ 3373. Assignment of employees to State and local governments

(a) An employee of an executive agency assigned to a State or local government under this subchapter is deemed, during the assignment, to be either—

(1) on detail to a regular work assignment in his agency; or

(2) on leave without pay from his position in the agency.

An employee assigned either on detail or on leave without pay remains an employee of his agency. The Federal Tort Claims Act and any other Federal tort liability statute apply to an employee so assigned. The supervision of the duties of an employee on detail may be governed by agreement between the executive agency and the State or local government concerned.

(b) The assignment of an employee of an executive agency either on detail or on leave without pay to a State or local government under this subchapter may be made with or without reimbursement by the State or local government for the travel and transportation expenses to or from the place of assignment and for the pay, or supplemental pay, or a part thereof, of the employee during assignment. Any reimbursements shall be credited to the appropriation of the executive agency used for paying the travel and transportation expenses or pay.

(c) For any employee so assigned and on leave without pay—

(1) if the rate of pay for his employment by the State or local government is less than the rate of pay he would have received had he continued in his regular assignment in the agency, he is entitled to receive supplemental pay from the agency in an amount equal to the difference between the State or local government rate and the agency rate;

(2) he is entitled to annual and sick leave to the same extent as if he had continued in his regular assignment in the agency; and

(3) he is entitled, notwithstanding other statutes—

(A) to continuation of his insurance under chapter 87 of this title, and coverage under chapter 89 of this title or other applicable authority, so long as he pays currently into the Employee's Life Insurance Fund and the Employee's Health Benefits Fund or other applicable health benefits system (through his employing agency) the amount of the employee contributions;

(B) to credit the period of his assignment under this subchapter toward periodic step-increases, retention, and leave accrual purposes, and, on payment into the Civil Service Retirement and Disability Fund or other applicable retirement system of the percentage of his State or local government pay, and of his supplemental pay, if any, that would have been deducted from a like agency pay for the period of the assignment and payment by the executive agency into the fund or system of the amount that would have been payable by the agency during the period of the assignment with respect to a like agency pay, to treat his service during that period as service of the type performed in the agency immediately before his assignment; and

(C) for the purpose of subchapter I of chapter 85 of this title, to credit the service performed during the period of his assignment under this subchapter as Federal service, and to consider his State or local government pay (and his supplemental pay, if any) as Federal wages. To the extent that the service could also be the basis for entitlement to unemployment compensation under a State law, the employee may elect to claim unemployment compensation on the basis of the service under either the State law or subchapter I of chapter 85 of this title.

However, an employee or his beneficiary may not receive benefits referred to in subparagraphs (A) and (B) of this paragraph (3), based on service during an assignment under this subchapter for which the employee or, if he dies without making such an election, his beneficiary elects to receive benefits, under any State or local government retirement or insurance law or program, which the Civil Service Commission determines to be similar. The executive agency shall deposit currently in the Employee's Life Insurance Fund, the Employee's Health Benefits Fund or other applicable health benefits system, respectively, the amount of the Government's contributions on account of service with respect to which employee contributions are collected as provided in subparagraphs (A) and (B) of this paragraph (3).

(d)(1) An employee so assigned and on leave without pay who dies or suffers disability as a result of personal injury sustained while in the performance of his duty during an assignment under this subchapter shall be treated, for the purpose of subchapter I of chapter 81 of this title, as though he were an employee as defined by section 8101 of this title who had sustained the injury in the performance of duty. When an employee (or his dependents in case of death) entitled by reason of injury or death to benefits under subchapter I of chapter 81 of this title is also entitled to benefits from a State or local government for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. The election shall be made within one year after the injury or death, or such further time as the Secretary of Labor may allow for reasonable cause shown. When made, the election is irrevocable unless otherwise provided by law.

(2) An employee who elects to receive benefits from a State or local government may not receive an annuity under subchapter III of chapter 83 of this title and benefits from the State or local government for injury or disability to himself covering the same period of time. This provision does not—

(A) bar the right of a claimant to the greater benefit conferred by either the State or local government or subchapter III of chapter 83 of this title for any part of the same period of time;

(B) deny to an employee an annuity accruing to him under subchapter III of chapter 83 of this title on account of service performed by him; or

(C) deny any concurrent benefit to him from the State or local government on account of the death of another individual.

(Added Pub. L. 91-648, title IV, § 402(a), Jan. 5, 1971, 84 Stat. 1921.)

References in Text

The Federal Tort Claims Act, referred to in subsec. (a), is classified to sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 3374. Assignments of employees from State or local governments

(a) An employee of a State or local government who is assigned to an executive agency under an arrangement under this subchapter may—

(1) be appointed in the executive agency without regard to the provisions of this title governing appointment in the competitive service for the agreed period of the assignment; or

(2) be deemed on detail to the executive agency.

(b) An employee given an appointment is entitled to pay in accordance with chapter 51 and subchapter III of chapter 53 of this title or other applicable law, and is deemed an employee of the executive agency for all purposes except—

(1) subchapter III of chapter 83 of this title or other applicable retirement system;

(2) chapter 87 of this title; and

(3) chapter 89 of this title or other applicable health benefits system unless his appointment results in the loss of coverage in a group health benefits plan the premium of which has been paid in whole or in part by a State or local government contribution.

(c) During the period of assignment, a State or local government employee on detail to an executive agency—

(1) is not entitled to pay from the agency;

(2) is deemed an employee of the agency for the purpose of chapter 73 of this title, sections 203, 205, 207, 208, 209, 602, 603, 606, 607, 643, 654, 1905, and 1913 of title 18, section 638a of title 31, and the Federal Tort Claims Act and any other Federal tort liability statute; and

(3) is subject to such regulations as the President may prescribe.

The supervision of the duties of such an employee may be governed by agreement between the executive agency and the State or local government concerned. A detail of a State or local government employee to an executive agency may be made with or without reimbursement by the executive agency for the pay, or a part thereof, of the employee during the period of assignment.

(d) A State or local government employee who is given an appointment in an executive agency for the period of the assignment or who is on detail to an executive agency and who suffers disability or dies as a result of personal injury sustained while in the performance of his duty during the assignment shall be treated, for the propose of subchapter I of chapter 81 of this title, as though he were an employee as defined by section 8101 of this title who had sustained the injury in the performance of duty. When an employee (or his dependents in case of death) entitled by reason of injury or death to benefits under subchapter I of chapter 81 of this title is also entitled to benefits from a State or local government for the same injury or death, he (or his dependents in case of death) shall elect which benefits he will receive. The election shall be made within 1 year after the injury or death, or such further time as the Secretary of Labor may allow for reasonable cause shown. When made, the election is irrevocable unless otherwise provided by law.

(e) If a State or local government fails to continue the employer's contribution to State or local government retirement, life insurance, and health benefit plans for a State or local government employee who is given an appointment in an executive agency, the employer's contributions covering the State or local government employee's period of assignment, or any part thereof, may be made from the appropriations of the executive agency concerned.

(Added Pub. L. 91-648, title IV, § 402(a), Jan. 5, 1971, 84 Stat. 1923.)

REFERENCES IN TEXT

The Federal Tort Claims Act, referred to in subsec. (c)(2), is classified to sections 1346(b) and 2671 et seq. of Title 28, Judiciary and Judicial Procedure.

§ 3375. Travel expenses

(a) Appropriations of an executive agency are available to pay, or reimburse, a Federal or State or local government employee in accordance with—

(1) subchapter I of chapter 57 of this title, for the expenses of—

(A) travel, including a per diem allowance, to and from the assignment location;

(B) a per diem allowance at the assignment location during the period of the assignment; and

(C) travel, including a per diem allowance, while traveling on official business away from his designated post of duty during the assignment when the head of the executive agency considers the travel in the interest of the United States;

(2) section 5724 of this title, for the expenses of transportation of his immediate family and of his household goods and personal effects to and from the assignment location;

(3) section 5724a(a)(1) of this title, for the expenses of per diem allowances for the immediate family of the employee to and from the assignment location;

(4) section 5724a(a)(3) of this title, for subsistence expenses of the employee and his immediate family while occupying temporary quarters at the assignment location and on return to his former post of duty; and

(5) section 5726(c) of this title, for the expenses of nontemporary storage of household goods and personal effects in connection with assignment at an isolated location.

(b) Expenses specified in subsection (a) of this section, other than those in paragraph (1)(C), may not be allowed in connection with the assignment of a Federal or State or local government employee under this subchapter, unless and until the employee agrees in writing to complete the entire period of his assignment or one year, whichever is shorter, unless separated or reassigned for reasons beyond his control that are acceptable to the executive agency concerned. If the employee violates the agreement, the money spent by the United States for these expenses is recoverable from the employee as a debt due the United States. The head of the executive agency concerned may waive in whole or in part a right of recovery under this subsection with respect to a State or local government employee on assignment with the agency.

(c) Appropriations of an executive agency are available to pay expenses under section 5742 of this title with respect to a Federal or State or local government employee assigned under this subchapter.

(Added Pub. L. 91-648, title IV, § 402(a), Jan. 5, 1971, 84 Stat. 1924.)

§ 3376. Regulations

The President may prescribe regulations for the administration of this subchapter.

(Added Pub. L. 91-648, title IV, § 402(a), Jan. 5, 1971, 84 Stat. 1925.)

EX. ORD. NO. 11589. DELEGATION OF FUNCTIONS TO CIVIL SERVICE COMMISSION

Ex. Ord. No. 11589, Apr. 1, 1971, 36 F.R. 6343, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. The United States Civil Service Commission is hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the following:

(a) The authority of the President under section 3376 of title 5 of the United States Code [this section] to prescribe regulations for the administration of subchapter VI, "Assignments to and from States," of chapter 33 of that title [this chapter].

(b) The authority of the President under section 205 (a)(4) of the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2286(a)(4)), and as affected by Reorganization Plan No. 1 of 1958 (72 Stat. 1799) [set out in the Appendix to this title], relating to the establishment and maintenance of personnel standards on the merit basis.

SEC. 2. To the extent that section 1(b) of this order is inconsistent with the provisions of Executive Order No. 10952 of July 20, 1961, as amended [set out as a note under section 2271 of Title 50, Appendix, War and National Defense], section 1(b) shall control.

RICHARD NIXON.

SUBCHAPTER VII—AIR TRAFFIC CONTROLLERS

§ 3381. Training

(a) An air traffic controller with 5 years of service as a controller who is to be removed as a controller because the Secretary of Transportation has determined—

(1) he is medically disqualified for duties as a controller;

(2) he is unable to maintain technical proficiency as a controller; or

(3) such removal is necessary for the preservation of the physical or mental health of the controller;

is entitled to not more than the full-time equivalent of 2 years of training.

(b) During a period of training under this section, a controller shall be—

(1) retained at his last assigned grade and rate of basic pay as a controller;

(2) entitled to each increase in rate of basic pay provided under law; and

(3) excluded from staffing limitations otherwise applicable.

(c) Upon completion of training under this section, a controller may be—

(1) assigned to other duties in the Department of Transportation;

(2) released for transfer to another Executive agency; or

(3) involuntarily separated from the service.

The involuntary separation of a controller under this subsection is not a removal for cause on charges of misconduct, delinquency, or inefficiency for purposes of section 5595 or section 8336 of this title.

(d) The Secretary, without regard to section 529 of title 31, may pay, or reimburse a controller for, all or part of the necessary expenses of training provided under this section, including expenses authorized to be paid under chapter 41 and subchapter I of chapter 57 of this title, and the costs of other services or facilities directly related to the training of a controller.

(e) Except as provided by subsection (d) of this section, the provisions of chapter 41 of this title, other than sections 4105(a), 4107(a) and (b), and 4111, shall not apply to training under this section.

(f) The provisions of this section shall not otherwise affect the authority of the Secretary to provide training under chapter 41 of this title or under any other provision of law.

(Added Pub. L. 92-297, § 3(a), May 16, 1972, 86 Stat. 142.)

EFFECTIVE DATE

Section 10 of Pub. L. 92-297 provided that: "This Act [enacting this subchapter and section 2109 of this title, amending sections 3307, 8332, 8334 to 8336, 8339, 8341, 8344 of this title, enacting provisions set out as notes under this section and section 8335 of this title, and repealing provisions set out as a note under section 3307 of this title] shall become effective at the beginning of the ninetieth day after the date of enactment of this Act [May 16, 1972]."

REPORT TO CONGRESS

Section 9 of Pub. L. 92-297 provided that: "The Secretary of Transportation shall make a report to the Congress of his operations under the amendments made by this Act [enacting this subchapter and section 2109 of this title, amending sections 3307, 8332, 8334 to 8336, 8339, 8341, 8344 of this title, enacting provisions set out as notes under this section and section 8335 of this title and repealing provisions set out as a note under section 3307 of this title]. The report shall include a detailed statement of the effectiveness of this Act in meeting the needs of the air traffic controller career program and of the air traffic control system, and any recommendations which the Secretary considers necessary or desirable for sound management of the program or the system. The Secretary shall make his report not later than 5 years after the date of enactment of this Act [May 16, 1972]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3382, 3383 of this title.

§ 3382. Involuntary separation for retirement

An air traffic controller who is eligible for immediate retirement under section 8336 of this title may be separated involuntarily from the service if the Secretary of Transportation determines that the separation of the controller is necessary in the interest of—

(1) aviation safety;

(2) the efficient control of air traffic; or

(3) the preservation of the physical or mental health of the controller.

Chapter 75 of this title does not apply to a determination or action under this section. Separation under this section shall not become final, without the consent of the controller, until the last day of the second month following the day the controller receives a notification of the determination by the Secretary under this section, or, if a review is requested under section 3383 of this title, the last day of the month in which a final decision is issued by a board of review under section 3383(c) of this title, whichever is later. A controller who is to be separated under this section is entitled to training under section 3381 of this title. Separation of such a controller who elects to receive training under section 3381 shall not become final until the last day of the month following the completion of his training.

(Added Pub. L. 92-297, § 3(a), May 16, 1972, 86 Stat. 142.)

EFFECTIVE DATE

Section effective on the 90th day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3383 of this title.

§ 3383. Determinations; review procedures

(a) An air traffic controller subject to a determination by the Secretary of Transportation under section 3381(a) or section 3382 of this title, shall be furnished a written notice of the determination and the reasons therefor, and a notification that the controller has 15 days after the receipt of the notification within which to file a written request for reconsideration of the determination. Unless the controller files such a request within the 15 days, or unless the determination is rescinded by the Secretary within the 15 days, the determination shall be final.

(b) If the Secretary does not rescind his determination within 15 days after his receipt of the written request filed by the controller under subsection (a) of this section, the Secretary shall immediately convene a board of review, consisting of—

(1) a person designated by the controller;

(2) a representative of the Department of Transportation designated by the Secretary; and

(3) a representative of the Civil Service Commission, designated by the Chairman, who shall serve as chairman of the board of review.

(c) The board of review shall review evidence supporting and inconsistent with the determination of the Secretary and, within a period of 30 days after being convened, shall issue its findings and furnish copies thereof to the Secretary and the controller. The board may approve or rescind the determination of the Secretary. A decision by the board under this subsection is final. The Secretary shall take such action as may be necessary to carry out the decision of the board.

(d) Except as provided under section 3382 of this title, the review procedure of this section is in addition to any other review or appeal procedures provided under any other provision of law, but is the sole and exclusive administrative remedy available to a controller within the Department of Transportation.

(Added Pub. L. 92-297, § 3(a), May 16, 1972, 86 Stat. 143.)

EFFECTIVE DATE

Section effective on the 90th day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3382 of this title.

§ 3384. Regulations

The Secretary of Transportation is authorized to issue regulations to carry out the provisions of this subchapter.

(Added Pub. L. 92-297, § 3(a), May 16, 1972, 86 Stat. 143.)

EFFECTIVE DATE

Section effective on the 90th day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

§ 3385. Effect on other authority

This subchapter shall not limit the authority of the Secretary of Transportation to reassign temporarily an air traffic controller to other duties with or without notice, in the interest of the safe or efficient separation and control of air traffic or the physical or mental health of a controller; or to reassign permanently or separate a controller under any other provision of law.

(Added Pub. L. 92-297, § 3(a), May 16, 1972, 86 Stat. 143.)

EFFECTIVE DATE

Section effective on the 90th day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

CHAPTER 35—RETENTION PREFERENCE, RESTORATION, AND REEMPLOYMENT

SUBCHAPTER I—RETENTION PREFERENCE

Sec.

3501. Definitions; application.
3502. Order of retention.
3503. Transfer of functions.
3504. Preference eligibles; retention; physical qualifications; waiver.

SUBCHAPTER II—RESTORATION AFTER ACTIVE DUTY OR TRAINING DUTY

3551. Restoration; Reserves and National Guardsmen.

SUBCHAPTER III—REINSTATEMENT OR RESTORATION AFTER SUSPENSION OR REMOVAL FOR NATIONAL SECURITY

3571. Reinstatement or restoration; individuals suspended or removed for national security.

SUBCHAPTER IV—REEMPLOYMENT AFTER SERVICE WITH AN INTERNATIONAL ORGANIZATION

Sec.

3581. Definitions.
3582. Rights of transferring employees.
3583. Computations.
3584. Regulations.

SUBCHAPTER I—RETENTION PREFERENCE

§ 3501. Definitions; application

(a) For the purpose of this subchapter, except section 3504—

(1) "active service" has the meaning given it by section 101 of title 37;

(2) "a retired member of a uniformed service" means a member or former member of a uniformed service who is entitled, under statute, to retired, retirement, or retainer pay on account of his service as such a member; and

(3) a preference eligible employee who is a retired member of a uniformed service is considered a preference eligible only if—

(A) his retirement was based on disability—

(i) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(ii) caused by an instrumentality of war and incurred in the line of duty during a period of war as defined by sections 101 and 301 of title 38;

(B) his service does not include twenty or more years of full-time active service, regardless of when performed but not including period of active duty for training; or

(C) on November 30, 1964, he was employed in a position to which this subchapter applies and thereafter he continued to be so employed without a break in service of more than 30 days.

(b) Except as otherwise provided by this subsection and section 3504 of this title, this subchapter applies to each employee in or under an Executive agency. This subchapter does not apply to an employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 428; Pub. L. 94-183, § 2(8), Dec. 31, 1975, 89 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)(1), (2)	5 U.S.C. 3101 (as applicable to 5 U.S.C. 861).	Aug. 19, 1964, Pub. L. 88-448, § 101 (as applicable to § 202), 78 Stat. 484.
(a)(3)	5 U.S.C. 861(b)	June 27, 1944, ch. 287, § 12(b); added Aug. 19, 1964, Pub. L. 88-448, § 202 (4) ("(b)"), 78 Stat. 486.

In subsection (a), the definitions of "uniformed services" and "armed forces" are omitted as unnecessary in view of the definitions in section 2101. The definition of "civilian office" is omitted as unnecessary as subsection (b) of this section states the application of this subchapter.

In subsection (a)(3), the words "Notwithstanding any other provision of this Act" are omitted as unnecessary. The words "preference eligible employee" are coextensive with and substituted for "employee * * * included under section 2 of this Act" in view of the definition of preference eligible in section 2108. In paragraph (3)(C), the words "on November 30, 1964, he was employed in a position to which this subchapter applies and thereafter he continued to be so employed" are substituted for "immediately prior to the effective date of this subsection, he was employed in a civilian office to which this Act applies and, on and after such date, he continues to be employed in any such office".

Subsection (b) is supplied on authority of sections 2, 12, and 20 of the Act of June 27, 1944, ch. 287, 58 Stat. 387, 391, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preference to the report.

Amendments

1975—Subsec. (b). Pub. L. 94-183 deleted ", except an employee whose appointment is made under section 3311 of title 39" which followed "or made with the advice and consent of, the Senate".

Section Referred to in Other Sections

This section is referred to in sections 3502, 6303 of this title; title 10 section 1586; title 22 section 1438.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3502. Order of retention

(a) The Civil Service Commission shall prescribe regulations for the release of competing employees in a reduction in force which give due effect to—

(1) tenure of employment;

(2) military preference, subject to section 3501(a)(3) of this title;

(3) length of service; and

(4) efficiency or performance ratings.

In computing length of service, a competing employee—

(A) who is not a retired member of a uniformed service is entitled to credit for the total length of time in active service in the armed forces;

(B) who is a retired member of a uniformed service is entitled to credit for—

(i) the length of time in active service in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(ii) the total length of time in active service in the armed forces if he is included under section 3501(a)(3)(A), (B), or (C) of this title; and

(C) who is an employee in or under the Department of Agriculture is entitled to credit for service rendered as an employee of a county committee established pursuant to section 590h(b) of title 16, or of a committee or an association of producers described in section 610(b) of title 7.

(b) A preference eligible employee whose efficiency or performance rating is "good" or "satisfactory" or better than "good" or "satisfactory" is entitled to be retained in preference to other competing employees. A preference eligible employee whose efficiency or performance rating is below "good" or "satisfactory" is entitled to be retained in preference to competing nonpreference employees who have equal or lower efficiency or performance ratings.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 428; Pub. L. 90-367, § 3, June 29, 1968, 82 Stat. 278; Pub. L. 90-623, § 1(23), Oct. 22, 1968, 82 Stat. 1313.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 861(a) (less 2d and 3d provisos),	June 27, 1944, ch. 287, § 12 (less 2d and 3d provisos), 58 Stat. 390.
	(c).	Aug. 19, 1964, Pub. L. 88-448, § 202 (1)-(3), (4) ("(c)"), 78 Stat. 486.
(b)	5 U.S.C. 861(a) (2d proviso).	June 27, 1944, ch. 287, § 12 (2d proviso), 58 Stat. 390.

In subsection (a), the words "reduction in force" are substituted for "reduction in personnel". The words "in any civilian service of any Federal agency" are omitted as unnecessary because of the application stated in section 3501. In the second sentence, the word "total" in the phrase "length of service" is omitted for consistency with paragraph (3), and the words "subject to subsection (c) of this section" are omitted as unnecessary in view of the supplied distinction between a competing employee who is not a retired member of a uniformed service and such an employee who is a retired member of a uniformed service. In paragraph (A), the words "total length of time in active service" are substituted for "length of time spent in active service" for consistency with paragraph (B)(ii).

In subsections (a) and (b), the references to "performance" ratings and ratings of "satisfactory" are added on authority of former section 2005, which is carried into section 4304.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1968—Subsec. (a). Pub. L. 90-623 made minor changes in form and punctuation in subpars. (A) and (B), and, in subpar. (C), substituted "section 590h(b) of title 16" and "section 610(b) of title 7" for "section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))" and "section 10(b) of the Agricultural Adjustment Act of May 12, 1933 (48 Stat. 37)" respectively.

Subsec. (a)(C). Pub. L. 90-367 added subsec. (a)(C).

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

Section Referred to in Other Sections

This section is referred to in title 10 section 1586; title 22 section 1438; title 32 section 709.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3503. Transfer of functions

(a) When a function is transferred from one agency to another, each preference eligible employed in the function shall be transferred to the receiving agency for employment in a position for which he is qualified before the receiving agency may make an appointment from another source to that position.

(b) When one agency is replaced by another, each preference eligible employed in the agency to be replaced shall be transferred to the replacing agency for employment in a position for which he is qualified before the replacing agency may make an appointment from another source to that position.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 429.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 861 (a) (3d proviso).	June 27, 1944, ch. 287, § 12 (3d proviso), 58 Stat. 390.

In subsection (a), the words "a function" are substituted for "any or all of the functions". The word "receiving" is substituted for "replacing" in the phrase "receiving agency" to avoid confusion with subsection (b).

In subsections (a) and (b), the word "first" in the phrase "shall first be transferred" is omitted as redundant in view of the subsequent limitation imposed by the words following "before". The words "make an appointment from another source to that position" are substituted for "appoint additional employees from any other source for such position".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1586; title 22 section 1438.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 3504. Preference eligibles; retention; physical qualifications; waiver

In determining qualifications of a preference eligible for retention in a position in the competitive service, an Executive agency, or the government of the District of Columbia, the Civil Service Commission or other examining agency shall waive—

(1) requirements as to age, height, and weight, unless the requirement is essential to the performance of the duties of the position; and

(2) physical requirements if, in the opinion of the Commission or other examining agency, after considering the recommendation of an accredited physician, the preference eligible is physically able to perform efficiently the duties of the position.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 429.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 854 (1st 2 sentences, so much as relates to retention).	June 27, 1944, ch. 287, § 5 (1st 2 sentences, so much as relates to retention), 58 Stat. 388.

The words "in the competitive service, an Executive agency, or the government of the District of Columbia" are added on authority of former sections 851, 858, and 869 which are carried into this title. The words "preference eligible" are substituted for "veteran".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3501 of this title; title 22 section 1438.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

SUBCHAPTER II—RESTORATION AFTER ACTIVE DUTY OR TRAINING DUTY

§ 3551. Restoration; Reserves and National Guardsmen

An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who is ordered to active duty or to duty under sections 502-505 of title 32 as a Reserve of the armed forces or member of the National Guard is entitled, on release from duty within the time limits specified in section 9(g) of the Military Selective Service Act of 1967 (50 U.S.C. App. 459(g)), to be restored to the position held by him when ordered to duty. However, a Reserve or member of the National Guard who leaves a position for which the salary is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives is entitled on release from active duty to be restored only under the provisions of section 459 of title 50, appendix, United States Code.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 429; Pub. L. 90-491, § 2, Aug. 17, 1968, 82 Stat. 791.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 30r(b)	Aug. 10, 1956, ch. 1041, § 29(b), 70A Stat. 632.

The statement of application is added on authority of former section 30r(a), which is carried into section 6323.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 9(g) of the Military Selective Service Act of 1967 (50 U.S.C. App. 459(g)), and the restoration provisions of section 459 of title 50, appendix, United States Code, referred to in text, were repealed by section 405(1) of Pub. L. 93-508, title IV, Dec. 3, 1974, 88 Stat. 1600. Section 404(a) of Pub. L. 93-508 enacted new restoration provisions which are contained in chapter 43 (section 2021 et seq.) of Title 38, Veterans' Benefits.

AMENDMENTS

1968—Pub. L. 90-491 substituted "within the time limits specified in section 9(g) of the Military Selective Service Act of 1967 (50 U.S.C. App. 459(g)), to be restored to the position held by him when ordered to duty", for ", to be restored to the position held when ordered to duty" and inserted provisions limiting restoration on release from active duty only under the provisions of section 459 of title 50, Appendix, in the case of a Reserve or member of the National Guard who leaves a position for which the salary is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

SUBCHAPTER III—REINSTATEMENT OR RESTORATION AFTER SUSPENSION OR REMOVAL FOR NATIONAL SECURITY

§ 3571. Reinstatement or restoration; individuals suspended or removed for national security

An individual suspended or removed under section 7532 of this title may be restored to duty in the discretion of the head of the agency concerned.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 429.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 22-1 (1st 31 words of 3d proviso).	Aug. 26, 1950, ch. 803, § 1 (1st 31 words of 3d proviso), 64 Stat. 477.

The words "suspended or removed under section 7532 of this title" are coextensive with and substituted for "whose employment is so suspended or terminated under the authority of said sections".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER IV—REEMPLOYMENT AFTER SERVICE WITH AN INTERNATIONAL ORGANIZATION

§ 3581. Definitions

For the purpose of this subchapter—

(1) "agency" means—

(A) an Executive agency;

(B) a military department; and

(C) an employing authority in the legislative branch;

(2) "employee" means an employee in or under an agency;

(3) "international organization" means a public international organization or international-organization preparatory commission in which the Government of the United States participates;

(4) "transfer" means the change of position by an employee from an agency to an international organization; and

(5) "reemployment" means—

(A) the reemployment of an employee under section 3582(b) of this title; or

(B) the reemployment of a Congressional employee within 90 days from his separation from an international organization;

following a term of employment not extending beyond the period named by the head of the agency at the time of consent to transfer or, in the absence of a named period, not extending beyond the first 5 consecutive years, or any extension thereof, after entering the employ of the international organization.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 429; Pub. L. 91-175, pt. V, § 502(b), Dec. 30, 1969, 83 Stat. 825; Pub. L. 94-183, § 2(9), Dec. 31, 1975, 89 Stat. 1057.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2331	Aug. 28, 1958, Pub. L. 85-795, § 2, 72 Stat. 959.

In paragraphs (1)(A) and (B), the terms "Executive agency" and "military department" are coextensive with and substituted for "any department or agency in the executive branch of the United States Government including independent establishments and Government owned or controlled corporations" in view of the definitions in sections 105 and 102.

In paragraph (2), the word "employee" is substituted for "any civilian appointive officer or employee" in view of the definition of "employee" in section 2105. The words "in or under an agency" are substituted for "in or under the executive or the legislative branch of the United States Government".

The definition of "Congressional employee" in former section 2331(4) is omitted as unnecessary because the term "Congressional employee", defined for the purpose of this title in section 2107, is coextensive with the definition in former section 2331(4).

The definition of "Detail" in former section 2331(6) is omitted from this section as inappropriate but is carried into section 3343.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1975—Subsec. (5)(A). Pub. L. 94-183 substituted "3582(b)" for "3582(a)".

1969—Par. (5). Pub. L. 91-175 substituted "the first 5 consecutive years, or any extension thereof, after entering the employ of the international organization" for "the first 3 consecutive years after entering the employ of the international organization".

Delegation of Authority

Authority of the President to extend a transfer of an employee under this section delegated to the Secretary of State, see section 3 of Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, set out as a note under section 3584 of this title.

Section Referred to in Other Sections

This section is referred to in section 3343 of this title.

§ 3582. Rights of transferring employees

(a) An employee serving under an appointment not limited to 1 year or less who transfers to an international organization with the consent of the head of his agency is entitled—

(1) to retain coverage, rights, and benefits under any system established by law for the retirement of employees, if necessary employee deductions and agency contributions in payment for the coverage, rights, and benefits for the period of employment with the international organization are currently deposited in the system's fund or depository; and the period during which coverage, rights, and benefits are retained under this paragraph is deemed creditable service under the system, except that such service shall not be considered creditable service for the purpose of any retirement system for transferring personnel, if such service forms the basis, in whole or in part, for an annuity or pension under the retirement system of the international organization;

(2) to retain coverage, rights, and benefits under chapters 87 and 89 of this title, if necessary employee deductions and agency con-

tributions in payment for the coverage, rights, and benefits for the period of employment with the international organization are currently deposited in the Employees' Life Insurance Fund and the Employees' Health Benefits Fund, as applicable, and the period during which coverage, rights, and benefits are retained under this paragraph is deemed service as an employee under chapters 87 and 89 of this title;

(3) to retain coverage, rights, and benefits under subchapter I of chapter 81 of this title, and for this purpose his employment with the international organization is deemed employment by the United States, but if he or his dependents receive from the international organization a payment, allowance, gratuity, payment under an insurance policy for which the premium is wholly paid by the international organization, or other benefit of any kind on account of the same injury or death, the amount thereof, is credited against disability or death compensation, as the case may be, payable under subchapter I of chapter 81 of this title; and

(4) to elect to retain to his credit all accumulated and current accrued annual leave to which entitled at the time of transfer which would otherwise be liquidated by a lump-sum payment. On his request at any time before reemployment, he shall be paid for the annual leave retained. If he receives a lump-sum payment and is reemployed within 6 months after transfer, he shall refund to the agency the amount of the lump-sum payment. This paragraph does not operate to cause a forfeiture of retained annual leave following reemployment or to deprive an employee of a lump-sum payment to which he would otherwise be entitled.

(b) An employee entitled to the benefits of subsection (a) of this section is entitled to be reemployed within 30 days of his application for reemployment in his former position or a position of like seniority, status, and pay in the agency from which he transferred, if—

(1) he is separated from the international organization within 5 years, or any extension thereof, after entering on duty with the international organization or within such shorter period as may be named by the head of the agency at the time of consent to transfer; and

(2) he applies for reemployment not later than 90 days after the separation.

On reemployment, he is entitled to the rate of basic pay to which he would be entitled had he remained in the civil service. On reemployment, the agency shall restore his sick leave account, by credit or charge, to its status at the time of transfer. The period of separation caused by his employment with the international organization and the period necessary to effect reemployment are deemed creditable service for all appropriate civil service employment purposes. On reemployment, he is entitled to be paid, under such regulations as the President may prescribe and from appropriations or funds of the agency from which transferred, an amount equal to the difference between the pay, allowances, post differential, and other monetary benefits paid by the international organization and the pay, allowances, post differential, and other monetary benefits that would have been paid by the agency had he been detailed to the international organization under section 3343 of this title. Such a payment shall be made to an employee who is unable to exercise his reemployment right because of disability incurred while on transfer to an international organization under this subchapter and, in the case of any employee who dies while on such a transfer or during the period after separation from the international organization in which he is properly exercising or could exercise his reemployment right, in accordance with subchapter VIII of chapter 55 of this title. This subsection does not apply to a congressional employee nor may any payment provided for in the preceding two sentences of this subsection be based on a period of employment with an international organization occurring before the first day of the first pay period which begins after December 29, 1969.

(c) This section applies only with respect to so much of a period of employment with an international organization as does not exceed 5 years, or any extension thereof, or such shorter period named by the head of the agency at the time of consent to transfer, except that for retirement and insurance purposes this section continues to apply during the period after separation from the international organization in which—

(1) an employee, except a Congressional employee, is properly exercising or could exercise the reemployment right established by subsection (b) of this section; or

(2) a Congressional employee is effecting or could effect a reemployment.

During that reemployment period, the employee is deemed on leave without pay for retirement and insurance purposes.

(d) During the employee's period of service with the international organization, the agency from which the employee is transferred shall make contributions for retirement and insurance purposes from the appropriations or funds of that agency so long as contributions are made by the employee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 430; Pub. L. 91-175, pt. V, § 502(c)-(f), Dec. 30, 1969, 83 Stat. 825, 826; Pub. L. 94-183, § 2(10), Dec. 31, 1975, 89 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2333 (less (c)).	Aug. 28, 1958, Pub. L. 85-795 § 4 (less (c)), 72 Stat. 960.

In subsection (a), the words "Notwithstanding the provisions of any law, Executive order, or regulation" are omitted as unnecessary. In paragraph (2), the words "an employee under chapter 87 of this title" are substituted for "an officer or employee of the United States". In paragraph (4), the words "under no circumstances" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Subsec. (b). Pub. L. 94-183 substituted in last sentence "after December 29, 1969" for "on or after the date of enactment of the Foreign Assistance Act of 1969".

1969—Subsec. (a). Pub. L. 91-175, § 502(c), added provision at the end of clause (1) excepting from creditable service, for the purpose of any retirement system, an agency employee who transfers to an international organization, if such service forms the basis for an annuity or pension under the retirement system of the international organization, and, in clause (2), added references to chapter 89 and Employees' Health Benefits Fund.

Subsec. (b). Pub. L. 91-175, § 502(d), struck out ", except a Congressional employee," in the material preceding cl. (1), substituted "5 years or any extension thereof," for "3 years" in cl. (1), and, in the material following cl. (2), added provision dealing with pay differentials to be received by former agency employee on reemployment with agency after service with international organization.

Subsec. (c). Pub. L. 91-175, § 502(e), substituted "5 years, or any extension thereof," for "3 years".

Subsec. (d). Pub. L. 91-175, § 502(f), made contributions for retirement and insurance purposes mandatory by the agency from which employee is transferred, during employee's period of service with international organization, so long as contributions are made by employee.

DELEGATION OF AUTHORITY

Authority of the President under subsec. (b) of this section delegated to the Civil Service Commission and authority, to define and specify pay, allowances, etc., to be paid by the federal agency, delegated to the Secretary of State, see section 3 of Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, set out as a note under section 3584 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3581 of this title.

§ 3583. Computations

A computation under this subchapter before reemployment is made in the same manner as if the employee had received basic pay, or basic pay plus additional pay in the case of a Congressional employee, at the rate at which it would have been payable had the employee continued in the position in which he was serving at the time of transfer.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 431.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2333(c)	Aug. 28, 1958, Pub. L. 85-795, § 4(c), 72 Stat. 961.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 3584. Regulations

The President may prescribe regulations necessary to carry out this subchapter and section 3343 of this title and to protect and assure the retirement, insurance, leave, and reemployment rights and such other similar civil service employment rights as he finds appropriate. The regulations may provide for the exclusion of employees from the application of this subchapter and section 3343 of this title on the basis of the nature and type of employment including excepted appointments of a confidential or policy-determining character, or conditions pertaining to the employment including short-term appointments, seasonal or intermittent employment, and part-time employment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 431.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2334	Aug. 28, 1958, Pub. L. 85-795, § 5, 72 Stat. 961.

The words "civil service employment rights" are substituted for "Federal employment rights". The word "including" is substituted for "such as, but not limited to".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EXECUTIVE ORDER NO. 10804

Ex. Ord. No. 10804, Feb. 12, 1959, 24 F.R. 1147, formerly set out as a note under this section, which delegated to the United States Civil Service Commission the authority vested in the President by section 5 of the Federal Employees International Organization Service Act (72 Stat. 961) [now this section], was revoked by Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, set out as a note under this section.

EX. ORD. NO. 11552. PROVIDING FOR DETAILS AND TRANSFERS OF FEDERAL EMPLOYEES TO INTERNATIONAL ORGANIZATIONS

Ex. Ord. No. 11552, Aug. 24, 1970, 35 F.R. 13569, provided:

By virtue of the authority vested in me by section 301 of title 3 and section 3584 of title 5 [this section], United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. *Leadership and coordination.* The Secretary of State shall provide leadership and coordination for the effort of the Federal Government to increase and improve its participation in international organizations through transfers and details of well-qualified Federal employees, and shall develop policies, procedures, and programs consistent with this order to advance and encourage such participation.

SEC. 2. *Federal agency cooperation.* Each agency in the executive branch of the Federal Government shall to the maximum extent feasible and with due regard to its manpower requirements assist and encourage details and transfers of employees to international organizations by observing the following policies and procedures:

(1) Vacancies in international organizations shall be brought to the notice of well-qualified agency employees whose abilities and levels of responsibility in the Federal service are commensurate with those required to fill such vacancies.

(2) Subject to prior approval of his agency, no leave shall be charged an employee who is absent for a maximum of three days for interview for a proposed detail or transfer at the formal request of an international organization of a Federal official; an agency may approve official travel for necessary travel within the United States in connection with such an interview.

(3) An agency, upon request of an appropriate authority, shall provide international organizations with detailed assessments of the technical or professional qualifications of individual employees being formally considered for details and transfers to specific positions.

(4) Upon return of an employee to his agency, the agency shall give due consideration to the employee's overall qualifications, including those which may have been acquired during his service with the international organization, in determining the position and grade in which he is reemployed.

SEC. 3. *Delegations.* (a) Except as otherwise provided in this order, there is hereby delegated to the United States Civil Service Commission the authority vested in the President by sections 3582(b) and 3584 of title 5, United States Code.

(b) The following are hereby delegated to the Secretary of State:

(1) The authority vested in the President by sections 3343 and 3581 of title 5, United States Code, to determine whether it is in the national interest to extend a detail or transfer of an employee beyond five years.

(2) The authority vested in the President by section 3582(b) of title 5, United States Code, to define and specify "pay, allowances, post differential, and other monetary benefits" to be paid by the agency upon reemployment, disability, or death.

SEC. 4. *Revocation.* Executive Order No. 10804 of February 12, 1959, is hereby revoked.

RICHARD NIXON.

Subpart C—Employee Performance

CHAPTER 41—TRAINING

Sec.
4101. Definitions.
4102. Exceptions; Presidential authority.
4103. Establishment of training programs.
4104. Government facilities; use of.
4105. Non-Government facilities; use of.
4106. Non-Government facilities; amount of training limited.
4107. Non-Government facilities; restrictions.
4108. Employee agreements; service after training.
4109. Expenses of training.
4110. Expenses of attendance at meetings.
4111. Acceptance of contributions, awards, and other payments.
4112. Absorption of costs within funds available.
4113. Agency review of training needs; annual program reports.
4114. Non-Government facilities; review of training programs.
4115. Collection of training information.
4116. Training program assistance.
4117. Administration.
4118. Regulations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1308, 3381 of this title; title 18 section 209; title 26 section 4941; title 38 section 1781; title 49 section 1354.

§ 4101. Definitions

For the purpose of this chapter—

(1) "agency", subject to section 4102 of this title, means—

(A) an Executive department;

(B) an independent establishment;

(C) a Government corporation subject to sections 846-852 or 856-859 of title 31;

(D) the Library of Congress;

(E) the Government Printing Office; and

(F) the government of the District of Columbia;

(2) "employee", subject to section 4102 of this title, means—

(A) an individual employed in or under an agency; and

(B) a commissioned officer of the Environmental Science Services Administration;

(3) "Government" means the Government of the United States and the government of the District of Columbia;

(4) "training" means the process of providing for and making available to an employee, and placing or enrolling the employee in, a planned, prepared, and coordinated program, course curriculum, subject, system, or routine of instruction or education, in scientific, professional, technical, mechanical, trade, clerical, fiscal, administrative, or other fields which are or will be directly related to the performance by the employee of official duties for the Government, in order to increase the knowledge, proficiency, ability, skill, and qualifications of the employee in the performance of official duties;

(5) "Government facility" means property owned or substantially controlled by the Government and the services of any civilian and military personnel of the Government; and

(6) "non-Government facility" means—

(A) the government of a State or of a territory or possession of the United States including the Commonwealth of Puerto Rico, and an interstate governmental organization, or a unit, subdivision, or instrumentality of any of the foregoing;

(B) a foreign government or international organization, or instrumentality of either, which is designated by the President as eligible to provide training under this chapter;

(C) a medical, scientific, technical, educational, research, or professional institution, foundation, or organization;

(D) a business, commercial, or industrial firm, corporation, partnership, proprietorship, or other organization;

(E) individuals other than civilian or military personnel of the Government; and

(F) the services and property of any of the foregoing furnishing the training.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 432; Pub. L. 90-206, title II, § 224(a), Dec. 16, 1967, 81 Stat. 642.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2302	July 7, 1958, Pub. L. 85-507, § 3, 72 Stat. 328.

In paragraph (1), the word "agency" is substituted for "department". Reference to the "General Accounting Office" is omitted as included in "independent establishment" because of the definition in section 104.

In paragraph (2)(B), the words "in the Department of Commerce" are omitted as unnecessary.

In paragraph (6)(C), the word "agency" is omitted as unnecessary and to avoid confusion with the word "agency" defined by paragraph (1).

In paragraph (6)(E), the words "individuals other than civilian or military personnel of the Government" are substituted for "an individual not a civilian or military officer or employee of the Government of the United States or of the municipal government of the District of Columbia" to conform to paragraph (5).

The definition of "Commission" in former section 2302(4) is omitted as unnecessary as the title "Civil Service Commission" is fully set out the first time it is used in each section of this chapter.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1967—Par. (2)(B). Pub. L. 90-206 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey".

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as a note under section 3110 of this title.

TRANSFER OF FUNCTIONS

The Coast and Geodetic Survey was consolidated with the Weather Bureau of the Department of Commerce to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration by Reorg. Plan No. 2 of 1965, eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318, set out in the Appendix to this title. All personnel (including commissioned officers) of the Survey and all property held or used by the Survey were deemed transferred to the Administration and all functions of the Survey were transferred to the Secretary of Commerce. For transfer of the Environmental Science Services Administration to National Oceanic and Atmospheric Administration, see transfer of functions note under section 4109 of this title.

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (6)(B) of this section delegated to the head of each agency concerned, see section 402 of Ex. Ord. No. 11348, Apr. 20, 1967, 32 F.R. 6335, set out as a note under section 4103 of this title.

CROSS REFERENCES

Executive departments, see section 101 of this title.

Government corporation, see section 103 of this title.

Independent establishment, see section 104 of this title.

Report to President on the training of employees under this chapter and the administration thereof, see section 1308 of this title.

§ 4102. Exceptions; Presidential authority

(a)(1) This chapter does not apply to—

(A) a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(B) the Tennessee Valley Authority; or

(C) an individual (except a commissioned officer of the Environmental Science Services Administration) who is a member of a uniformed service during a period in which he is entitled to pay under section 204 of title 37.

(2) This chapter (except sections 4110 and 4111) does not apply to—

(A) the Foreign Service of the United States; or

(B) an individual appointed by the President, unless the individual is specifically designated by the President for training under this chapter.

(b) The President, at any time in the public interest, may—

(1) except an agency or part thereof, or an employee or group or class of employees therein, from this chapter or a provision thereof (except this section); and

(2) withdraw an exception made under this subsection.

However, the President may not except the Civil Service Commission from a provision of this chapter which vests in or imposes on the Commission a function, duty, or responsibility concerning any matter except the establishment, operation, and maintenance, in the same capacity as other agencies, of training programs and plans for its employees.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 433; Pub. L. 90-83, § 1(4), Sept. 11, 1967, 81 Stat. 196; Pub. L. 94-183, § 2(11), Dec. 31, 1975, 89 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2303	July 7, 1958, Pub. L. 85-507, § 4, 72 Stat. 329. May 26, 1959, Pub. L. 86-33, 73 Stat. 62. Aug. 2, 1962, Pub. L. 87-566, 76 Stat. 264.

In subsection (a)(1), the exception for the President and Vice President is omitted as surplusage as these elected officers are not employed in or under an agency and thus are not included in the definition of "employee" in section 4101(2).

In subsection (a)(1)(C), the words "as defined by section 231(a) of Title 37" are omitted as unnecessary in view of the definition of "uniformed services" in section 2101(b). The words "section 204 of title 37" are substituted for "sections 232-234, 235, 236, 237, 238, and 239 of Title 37" on authority of section 12(b) of the Act of Sept. 7, 1962, Pub. L. 87-649, 76 Stat. 497.

In subsection (a)(2)(B), the words "by the President" are coextensive with and substituted for "by the President by and with the advice and consent of the Senate or by the President alone".

In subsection (b)(1), reference to "section 21, and section 22" is omitted as unnecessary since the sections are not carried into this title, but are scheduled for repeal, see Table II.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Subsec. (a)(2)(B). Pub. L. 94-183 deleted "(except a Postmaster)" which followed "an individual appointed by the President".

1967—Subsec. (a)(1)(C). Pub. L. 90-83 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey." See Reviser's Note under section 2101 of this title, and transfer of functions note under section 4101 of this title.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (b)(1) of this section delegated to the Civil Service Commission, see section 401(a) of Ex. Ord. No. 11348, Apr. 20, 1967, 32 F.R. 6335, set out as a note under section 4103 of this title.

EX. ORD. NO. 10805. CENTRAL INTELLIGENCE AGENCY

Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, provided:

SECTION 1. The Central Intelligence Agency is hereby designated as excepted from the following-described provisions of the Government Employees Training Act [this chapter and section 1308 of this title]:

(a) Section 2(4), 6, 9(b)(1), 11, 12, 15, 16, and 18 [sections 4117, 4118, 4105(b)(1), 4108, 4106, 4114, 4115, and

1308(a)(4)(A)-(C), (b) and 4113(b) respectively of this title].

(b) The last sentence of section 5 [section 4113(a) of this title].

(c) That part of section 7 [section 4103(1) of this title] which reads "shall conform, on or after the effective date of the regulations prescribed by the Commission under section 6 of this Act [section 4118 of this title], to the principles, standards, and related requirements contained in such regulations then current,".

(d) That part of section 10 [section 4109(a) of this title] which reads "in accordance with regulations issued by the Commission under authority of section 6(a)(8) [section 4118(a)(8) of this title]."

SEC. 2. Section 2 of Executive Order No. 10800, of January 15, 1959, is hereby amended by deleting the reference to "section 5" and the reference to "section 5(b)" and by inserting in lieu thereof "section 4" and "section 4(b)", respectively.

EXECUTIVE ORDER No. 11531

Ex. Ord. No. 11531, May 26, 1970, 35 F.R. 8337, formerly set out as a note under this section, which related to the delegation of Presidential authority to designate United States Marshals and United States Attorneys for training, was superseded by Ex. Ord. No. 11895, Jan. 6, 1976, 41 F.R. 1465, set out as a note under this section.

EX. ORD. NO. 11895. DELEGATION OF PRESIDENTIAL AUTHORITY TO DESIGNATE INDIVIDUALS APPOINTED BY THE PRESIDENT TO RECEIVE TRAINING

Ex. Ord. No. 11895, Jan. 6, 1976, 41 F.R. 1465, provided:

By virtue of the authority vested in me by Section 301 of Title 3 of the United States Code, and as President of the United States, it is hereby ordered as follows:

SECTION 1. Except as provided in Section 2 of this Order, the United States Civil Service Commission is hereby designated and empowered to exercise the authority vested in the President by Section 4102(a)(2)(B) of Title 5, United States Code, to designate individuals appointed by the President for training under Chapter 41 of Title 5, United States Code.

SEC. 2. The Attorney General is hereby designated and empowered to exercise the authority vested in the President by Section 4102(a)(2)(B) to designate individuals appointed by the President as United States Attorneys and United States Marshals for training under Chapter 41 of Title 5, United States Code.

SEC. 3. Executive Order No. 11531 of May 26, 1970, is hereby superseded.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4101, 4108 of this title.

§ 4103. Establishment of training programs

In order to increase economy and efficiency in the operations of the agency and to raise the standards of performance by employees of their official duties to the maximum possible level of proficiency, the head of each agency, in conformity with this chapter, shall establish, operate, and maintain a program or programs, and a plan or plans thereunder, for the training of employees in or under the agency by, in, and through Government facilities and non-Government facilities. Each program, and plan thereunder, shall—

(1) conform to the principles, standards, and related requirements contained in the regulations prescribed under section 4118 of this title;

(2) provide for adequate administrative control by appropriate authority; and

(3) provide for the encouragement of self-training by employees by means of appropriate recognition of resultant increases in proficiency, skill, and capacity.

Two or more agencies jointly may operate under a training program.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 433.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2306	July 7, 1958, Pub. L. 85-507, § 7, 72 Stat. 331.

The words "Within two hundred and seventy days after the date of enactment of this Act [July 7, 1958]" are omitted as obsolete.

In paragraph (1), reference to the effective date of the regulations is omitted as obsolete.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CENTRAL INTELLIGENCE AGENCY

Exception of Central Intelligence Agency from provisions of cl. (1) of this section and certain other provisions of this chapter, and section 1308 of this title, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301 set out as a note under section 4102 of this title.

EX. ORD. NO. 11348. FURTHER TRAINING OF GOVERNMENT EMPLOYEES

Ex. Ord. No. 11348, Apr. 20, 1967, 32 F.R. 6335, provided:

By virtue of the authority vested in me by section 301 of Title 3 of the United States Code and by section 2 of the Act of July 7, 1958 (72 Stat. 327), it is ordered as follows:

PART I—GENERAL

SECTION 101. (a) As used in this order, the terms "agency", "employee", "Government", and "training", have meanings given to those terms, respectively, by section 4101 of Title 5, United States Code.

(b) "Interagency training" means training provided by one agency for other agencies or shared by two or more agencies.

SEC. 102. It is the policy of the Government of the United States to develop its employees through the establishment and operation of progressive and efficient training programs, thereby improving public service, increasing efficiency and economy, building and retaining a force of skilled and efficient employees, and installing and using the best modern practices and techniques in the conduct of the Government's business.

SEC. 103. The Civil Service Commission shall provide leadership and guidance to insure that the policy set forth in section 102 is carried out.

PART II—CIVIL SERVICE COMMISSION RESPONSIBILITIES

SEC. 201. The Civil Service Commission shall plan and promote the development, improvement, coordination, and evaluation of training in accordance with chapter 41 of Title 5, United States Code, and with the policy set forth in section 102 of this order.

SEC. 202. In carrying out its responsibilities under chapter 41 of Title 5, United States Code, and section 201 of this order, the Commission shall:

(a) Advise the President on means for furthering and strengthening programs of training;

(b) Counsel heads of agencies and other agency officials on the improvement of training;

(c) Assist agencies to develop sound programs and financial plans for training and provide advice, information, and assistance to agencies on planning, programming, budgeting, operating, and evaluating training programs;

(d) Identify functional areas in which new or expanded interagency training activity is needed and either conduct such training or arrange for agencies having the substantive competence to do so;

(e) Coordinate interagency training conducted by and for agencies (including agencies and portions of agencies excepted by section 4102(a) of Title 5, United States Code);

(f) Encourage agencies to make appropriate use of non-Government training resources;

(g) Develop, install, and maintain a system to provide the training data needed to carry out its own functions and to provide staff assistance to the President; and

(h) Provide for identification and dissemination of findings of research into training technology and undertake or assign to other agencies, such research projects as may be needed.

Part III—Agency Responsibilities and Operations

Sec. 301. The head of each agency shall plan, program, budget, operate, and evaluate training programs in accordance with chapter 41 of Title 5, United States Code, and with the policy set forth in section 102 of this order.

Sec. 302. The head of each agency shall:

(a) Foster employee self-development by creating a work environment in which self-development is encouraged, by assuring that opportunities for training and self-study materials are reasonably available, where the employee is stationed, and by recognizing self-initiated improvement in performance;

(b) Provide training for employees without regard to race, creed, color, national origin, sex, or other factors unrelated to the need for training;

(c) Establish and make full use of agency facilities for training employees;

(d) Extend agency training programs to employees of other agencies (including agencies and portions of agencies excepted by section 4102(a) of Title 5, United States Code) and assign his employees to interagency training whenever this will result in better training, improved service, or savings to the Government;

(e) Establish interagency training facilities in areas of substantive competence as arranged by the Civil Service Commission; and

(f) Use non-Government training resources as appropriate.

Sec. 303. In carrying out his responsibilities, the head of each agency shall, consonant with chapter 41 of Title 5, United States Code, this order, and regulations of the Civil Service Commission:

(a) Review periodically, but not less often than annually, the agency's program to identify training needed to bring about more effective performance at the least possible cost;

(b) Conduct periodic reviews of individual employee's training needs as related to program objectives;

(c) Conduct research related to training objectives and required for program improvement and effectiveness;

(d) Plan, program, and evaluate training for both short and longrange program needs by occupations, organizations, or other appropriate groups;

(e) Establish priorities for needed training, and provide for the use of funds and manhours in accordance with these priorities;

(f) Utilize the flexibility of work assignments to provide work experience which promotes growth leading to higher quality and greater quantity of work done;

(g) Establish training facilities and services as needed;

(h) Monitor the effectiveness with which self-development is encouraged and on-the-job training is provided at all levels; and

(i) Establish criteria for the selection of employees for training; and

(j) Approve the acceptance of any contributions, awards, or payments to employees authorized by section 401(b) of this order and regulations issued by the Civil Service Commission.

Part IV—Delegations

Sec. 401. The following functions vested in the President are hereby delegated to the Civil Service Commission:

(a) The authority under section 4102(b)(1) of Title 5, United States Code, to designate any agency or part thereof, or any employee or employees therein, as excepted from any provision of chapter 41, of Title 5, United States Code, other than sections 4102, 4111(b), and 4112; and to designate any such agency or part thereof, or any employee or employees therein previously excepted, as again subject to chapter 41 of Title 5, United States Code, or any provision of that chapter.

(b) The authority under section 4111(a) of Title 5, United States Code, to fix by regulation the extent to which the contributions, awards, and payments referred to in that section may be made to and accepted by employees.

Sec. 402. The authority vested in the President by section 4101(6)(B) of Title 5, United States Code, to designate a foreign government or international organization or instrumentality of either as eligible to provide training, is hereby delegated to the head of each agency for his employees except that each such designation shall be made only after the agency head concerned has obtained and given due consideration to the advice of the Department of State thereon prior to the first use of such training facility and thereafter periodically but not less often than once every three years.

Part V—Revocation of Prior Order

Sec. 501. Executive Order No. 10800 of January 15, 1959, is hereby revoked.

Lyndon B. Johnson.

Ex. Ord. No. 11451. President's Commission on Personnel Interchange

Ex. Ord. No. 11451, Jan. 19, 1969, 34 F.R. 921, provided:

Whereas close cooperation between the Government and the private sector is essential to the future progress of our Nation;

Whereas both the Government and the private sector will be enriched if the most promising young executives in each sector are given an opportunity to work in the other sector in challenging and responsible positions; and

Whereas the President's Advisory Panel on Personnel Interchange has recommended establishment of a President's Commission on Personnel Interchange to implement a formal program of executive interchange:

Now, Therefore, by virtue of the authority vested in me as President of the United States, it is ordered as follows:

Section 1. *Establishment of the Commission.* (a) There is hereby established the President's Commission on Personnel Interchange (hereinafter referred to as the Commission).

(b) The Commission shall be composed of such officials in the Federal departments and agencies and such persons from the private sector as the President may from time to time appoint. The Chairman shall be designated by the President. The members of the Commission and the Chairman shall serve two-year terms at the pleasure of the President.

(c) Members of the Commission who are officers or employees of the Federal Government shall receive no additional compensation by reason of this order, and members who are not such officers or employees shall serve without compensation, but shall be provided with travel expenses, including per diem in lieu of subsistence, as authorized by law.

SEC. 2. *Functions of the Commission.* The Commission shall:

(a) Develop an Executive Interchange Program under which promising young executives from the Federal departments and agencies and the private sector will be selected as Interchange Executives and placed in positions offering challenge and responsibility in the other sector.

(b) Develop an education program designed to place the work experience of the Interchange Executives in the broader context of Government and the private sector.

(c) Supervise and review the operation of the Program, and make recommendations to the President as to ways of promoting interchange between the Government and the private sector.

SEC. 3. *Federal Departments and Agencies.* (a) Each Federal department and agency shall cooperate with the Commission and shall furnish it with such assistance as the Chairman may request in connection with the Program.

(b) The head of each Federal department and agency shall designate a presidential appointee who is not a member of the Commission to serve as liaison to the Commission.

(c) The Civil Service Commission shall provide the Commission with administrative services, staff support, and travel expenses, as authorized by law.

LYNDON B. JOHNSON.

§ 4104. Government facilities; use of

An agency program for the training of employees by, in, and through Government facilities under this chapter shall—

(1) provide for training, insofar as practicable, by, in, and through Government facilities under the jurisdiction or control of the agency; and

(2) provide for the making by the agency, to the extent necessary and appropriate, of agreements with other agencies in any branch of the Government, on a reimbursable basis when requested by the other agencies, for—

(A) use of Government facilities under the jurisdiction or control of the other agencies in any branch of the Government; and

(B) extension to employees of the agency of training programs of other agencies.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 434.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 2307	July 7, 1958, Pub. L. 85-507, § 8, 72 Stat. 331.

In paragraph (2), the words "other agencies in any branch of the Government" and "the other agencies" are coextensive with and substituted for "other departments, and with other agencies in any branch of the Government" and "such other departments and agencies". This is so because "other agencies in any branch of the Government" is broader than "agency" as defined for the purpose of this chapter in section 4101(1).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 4105. Non-Government facilities; use of

(a) The head of an agency, without regard to section 5 of title 41, may make agreements or other arrangements for the training of employees of the agency by, in, or through non-Government facilities under this chapter.

(b) An agency program for the training of employees by, in, and through non-Government facilities under this chapter shall—

(1) provide that information concerning the selection and assignment of employees for training and the applicable training limitations and restrictions be made available to employees of the agency; and

(2) give consideration to the needs and requirements of the agency in recruiting and retaining scientific, professional, technical, and administrative employees.

(c) In order to protect the Government concerning payment and reimbursement of training expenses, each agency shall prescribe such regulations as it considers necessary to implement the regulations prescribed under section 4118(a)(8) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 434.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 2308	July 7, 1958, Pub. L. 85-507, § 9, 72 Stat. 331.

In subsection (a), the word "appropriate" is omitted as unnecessary.

In subsection (b)(1), the words "by, in, and through non-Government facilities" are omitted as unnecessary in view of the previous reference in the subsection.

In subsection (b)(2), the word "appropriate" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CENTRAL INTELLIGENCE AGENCY

Exception of Central Intelligence Agency from provisions of subsec. (b)(1) of this section and certain other provisions of this chapter, and section 1308 of this title, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, set out as a note under section 4102 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3381 of this title.

§ 4106. Non-Government facilities; amount of training limited

(a) The training of employees by, in, and through non-Government facilities under this chapter is subject to the following limitations:

(1) The number of man-years of training for an agency in a fiscal year may not exceed 1 percent of the total number of man-years of civilian employment for the agency in the same fiscal year as disclosed by the agency budget estimates for the year.

(2) An employee having less than 1 year of current, continuous civilian service is not eligible for training unless the head of his agency determines, under regulations prescribed under section 4118 of this title, that training for the employee is in the public interest.

(3) The time spent by an employee in training may not exceed 1 year in the first 10-year period and in each subsequent 10-year period of his continuous or non-continuous civilian service in the Government.

The Civil Service Commission may prescribe other limitations, in accordance with the provisions and purposes of this chapter, concerning the time which may be spent by an employee in training.

(b) On recommendation of the head of an agency, the Commission may waive, with respect to that agency or part thereof or one or more employees therein, all or any of the limitations covered by subsection (a) of this section, if the Commission determines that the application of all or any of the limitations thereto is contrary to the public interest. The Commission, in the public interest, may reimpose all or any of the limitations so waived.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 434.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2311	July 7, 1958, Pub. L. 85-507, § 12, 72 Stat. 333.

In subsection (a)(1), the words "by, in, and through non-Government facilities" are omitted as unnecessary in view of the previous reference in the subsection.

In subsection (a)(2), the prohibition is restated in positive form.

In the last sentence of subsection (a) and in subsection (b), the words "in its discretion" are omitted as unnecessary in view of the permissive nature of the authority.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CENTRAL INTELLIGENCE AGENCY

Exception of Central Intelligence Agency from provisions of this section and certain other provisions of this chapter and section 4102 of this title, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, set out as a note under section 4102 of this title.

§ 4107. Non-Government facilities; restrictions

(a) Appropriations or other funds available to an agency are not available for payment for training an employee—

(1) by, in or through a non-Government facility which teaches or advocates the overthrow of the Government of the United States by force or violence; or

(2) by or through an individual concerning whom determination has been made by a proper Government administrative or investigatory authority that, on the basis of information or evidence developed in investigations and procedures authorized by law or Executive order, there exists a reasonable doubt of his loyalty to the United States.

(b) This chapter does not authorize training an employee by, in, or through a non-Government facility a substantial part of the activities of which is—

(1) carrying on propaganda, or otherwise attempting, to influence legislation; or

(2) participating or intervening, including publishing or distributing statements, in a political campaign on behalf of a candidate for public office.

(c) This chapter does not authorize the selection and assignment of an employee for training by, in, or through a non-Government facility, or the payment or reimbursement of the costs of training, for—

(1) the purpose of providing an opportunity to an employee to obtain an academic degree in order to qualify for appointment to a particular position for which the academic degree is a basic requirement; or

(2) the sole purpose of providing an opportunity to an employee to obtain one or more academic degrees.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 435.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 2313	July 7, 1958, Pub. L. 85-507, § 14, 72 Stat. 334.
(b)	5 U.S.C. 2318(d).	July 7, 1958, Pub. L. 85-507, § 19(d), 72 Stat. 336.
(c)	5 U.S.C. 2312	July 7, 1958, Pub. L. 85-507, § 13, 72 Stat. 334.

The prohibitions are restated in positive form.

In subsection (a)(2), the words "Executive order" are substituted for "Executive orders of the President".

In subsection (c), the words "under authority of this chapter" and "by the Government" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3381 of this title.

§ 4108. Employee agreements; service after training

(a) An employee selected for training by, in, or through a non-Government facility under this chapter shall agree in writing with the Government before assignment to training that he will—

(1) continue in the service of his agency after the end of the training period for a period at least equal to three times the length of the training period unless he is involuntarily separated from the service of his agency; and

(2) pay to the Government the amount of the additional expenses incurred by the Government in connection with his training if he is voluntarily separated from the service of his agency before the end of the period for which he has agreed to continue in the service of his agency.

(b) The payment agreed to under subsection (a)(2) of this section may not be required of an employee who leaves the service of his agency to enter into the service of another agency in any branch of the Government unless the head of the agency that authorized the training notifies the employee before the effective date of his entrance into the service of the other agency that payment will be required under this section.

(c) If an employee, except an employee relieved of liability under subsection (b) of this section or section 4102(b) of this title, fails to fulfill his agreement to pay to the Government the additional expenses incurred by the Government in connection with his training, a sum equal to the amount of the additional expenses of training is recoverable by the Government from the employee or his estate by—

(1) setoff against accrued pay, compensation, amount of retirement credit, or other

amount due the employee from the Government; and

(2) such other method as is provided by law for the recovery of amounts owing to the Government.

The head of the agency concerned, under the regulations prescribed under section 4118 of this title, may waive in whole or in part a right of recovery under this subsection, if it is shown that the recovery would be against equity and good conscience or against the public interest.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 435.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2310	July 7, 1958, Pub. L. 85-507, § 11, 72 Stat. 332.

In subsection (a), the last sentence of former section 2310(a) is omitted as included in the first sentence of the revised subsection.

In subsection (b), the words, "another agency in any branch of the Government" are coextensive with and substituted for "another department or of any other agency in any branch of the Government". This is so because "agency in any branch of the Government" is broader than "agency" as defined for the purpose of this chapter in section 4101(1).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CENTRAL INTELLIGENCE AGENCY

Exception of Central Intelligence Agency from provisions of this section and certain other provisions of this chapter, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, set out as a note under section 4102 of this title.

§ 4109. Expenses of training

(a) The head of an agency, under the regulations prescribed under section 4118(a)(8) of this title and from appropriations or other funds available to the agency, may—

(1) pay all or a part of the pay (except overtime, holiday, or night differential pay) of an employee of the agency selected and assigned for training under this chapter, for the period of training; and

(2) pay, or reimburse the employee for, all or a part of the necessary expenses of the training, without regard to section 529 of title 31, including among the expenses the necessary costs of—

(A) travel and per diem instead of subsistence under subchapter I of chapter 57 of this title or, in the case of commissioned officers of the Environmental Science Services Administration, sections 404 and 405 of title 37, and the Joint Travel Regulations for the Uniformed Services;

(B) transportation of immediate family, household goods and personal effects, packing, crating, temporarily storing, draying, and unpacking under section 5724 of this title or, in the case of commissioned officers of the Environmental Science Services Administration, sections 406 and 409 of title 37, and the Joint Travel Regulations for the Uniformed Services, when the estimated costs of transportation and related services are less than the estimated aggregate per diem payments for the period of training;

(C) tuition and matriculation fees;

(D) library and laboratory services;

(E) purchase or rental of books, materials, and supplies; and

(F) other services or facilities directly related to the training of the employee.

(b) The expenses of training do not include membership fees except to the extent that the fee is a necessary cost directly related to the training itself or that payment of the fee is a condition precedent to undergoing the training.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 436; Pub. L. 90-83, § 1(4), Sept. 11, 1967, 81 Stat. 196.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2309	July 7, 1958, Pub. L. 85-507, § 10, 72 Stat. 332.

In subsection (a)(1) and (2), the words "training under this chapter" and "the training" are substituted for "training by, in, or through Government facilities or non-Government facilities under authority of this chapter" and "such training", respectively.

In subsection (a)(2)(A), the words "and the Standardized Government Travel Regulations" are omitted as included by the reference to "subchapter I of chapter 57 of this title".

In subsection (a)(2)(A) and (B), the words "sections 404 and 405 of title 37" and "sections 406 and 409 of title 37" are substituted for the references to "section 253 of title 37" on authority of section 12(b) of the Act of Sept. 7, 1962, Pub. L. 87-649, 76 Stat. 497.

In subsection (a)(2)(B), the words "under section 5724 of this title" are substituted for "in accordance with section 73b-1 of this title, and Executive Order Numbered 9805, as amended" to reflect the codification of former section 73b-1 in this title and in view of the revocation of Executive Order No. 9805 by Executive Order No. 11012 of Mar. 27, 1962. The reference only to section 5724 is sufficient since that section contains the applicable substantive law, including the authority of the President to prescribe regulations.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1967—Subsec. (a)(2). Pub. L. 90-83 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey," in clauses (A) and (B). See Reviser's Note under section 2101 of this title.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

CENTRAL INTELLIGENCE AGENCY

Exception of Central Intelligence Agency from introductory provisions of subsec. (a) of this section and certain other provisions of this chapter, and section

1308 of this title, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, set out as a note under section 4102 of this title.

CROSS REFERENCES

Use of appropriated funds for membership dues or fees or for expenses of attendance at meetings prohibited except as authorized by this section, see section 5946 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4118, 5946 of this title.

§ 4110. Expenses of attendance at meetings

Appropriations available to an agency for travel expenses are available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of the functions or activities.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 436.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2318(b).	July 7, 1958, Pub. L. 85-507, § 19(b), 72 Stat. 336.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Use of appropriated funds for membership dues or fees or for expenses of attendance at meetings prohibited except as authorized by this section, see section 5946 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4102, 5946 of this title.

§ 4111. Acceptance of contributions, awards, and other payments

(a) To the extent authorized by regulation of the President, contributions and awards incident to training in non-Government facilities, and payment of travel, subsistence, and other expenses incident to attendance at meetings, may be made to and accepted by an employee, without regard to section 209 of title 18, if the contributions, awards, and payments are made by an organization determined by the Secretary of the Treasury to be an organization described by section 501(c)(3) of title 26 which is exempt from taxation under section 501(a) of title 26.

(b) When a contribution, award, or payment, in cash or in kind, is made to an employee for travel, subsistence, or other expenses under subsection (a) of this section, an appropriate reduction, under regulations of the Director of the Bureau of the Budget, shall be made from payment by the Government to the employee for travel, subsistence, or other expenses incident to training in a non-Government facility or to attendance at a meeting.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 437.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 2318(a).	July 7, 1958, Pub. L. 85-507, § 19(a), 72 Stat. 336.
(b)	5 U.S.C. 2318(c)	July 7, 1958, Pub. L. 85-507, § 19(c), 72 Stat. 336.

In subsection (a), the words "section 209 of title 18" are substituted for "section 1914 of title 18" on authority of the Act of Oct. 23, 1962, Pub. L. 87-849, § 2, 76 Stat. 1126.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to this title. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget.

DELEGATION OF FUNCTIONS

Functions of the President under subsec. (a) of this section delegated to the Civil Service Commission, see section 401(b) of Ex. Ord. No. 11348, Apr. 20, 1967, 32 F.R. 6335, set out as a note under section 4103 of this title.

Authority of the President to prescribe regulations with respect to reductions to be made from payments by the Government to employees for travel, subsistence, or other expenses incident to training in a non-Government facility or to attendance at a meeting under subsec. (b) of this section delegated to the Administrator of General Services, see section 1(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3381, 4102, 4113 of this title; title 38 section 4108.

§ 4112. Absorption of costs within funds available

(a) The Director of the Bureau of the Budget, to the extent he considers practicable, shall provide by regulation for the absorption of the costs of the training programs and plans under this chapter by the respective agencies from applicable appropriations or funds available for each fiscal year.

(b) Subsection (a) of this section may not be held or considered to require—

(1) the separation of an individual from the service by reduction in force or other personnel action; or

(2) the placement of an individual in a leave-without-pay status.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 437.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2319	July 7, 1958, Pub. L. 85-507, § 23, 72 Stat. 338.

In subsection (a), the words "for each fiscal year" are substituted for "for the fiscal year in which this chapter is enacted and for each succeeding fiscal year".

In subsection (b), the prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to this title. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget.

§ 4113. Agency review of training needs; annual program reports

(a) The head of each agency, at least once every 3 years, shall review the needs and requirements of the agency for the training of employees under its jurisdiction. The Civil Service Commission, on request of an agency, may assist the agency with the review. Information obtained or developed in a review shall be made available to the Commission at its request.

(b) Each agency shall report annually to the Commission, at such times and in such form as the Commission prescribes, on its programs and plans for the training of employees under this chapter. The report shall set forth—

(1) such information concerning the expenditures of the agency in connection with training as the Commission considers appropriate;

(2) the name of each employee of the agency, except a student participating in a cooperative educational program, who, during the period covered by the report, received training by, in, or through a non-Government facility for more than 120 days; the grade, title, and primary duties of the position held by the employee; the name of the non-Government facility from which the training was received; the nature, length, and cost of the training to the Government; and the relationship of the training to official duties;

(3) the name of each employee of the agency who received a contribution or award under section 4111(a) of this title during the period covered by the report;

(4) a statement concerning the value of the training to the agency;

(5) estimates of the extent to which economies and improved operations have resulted from the training; and

(6) such other information as the agency or the Commission considers appropriate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 437.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 2304	July 7, 1958, Pub. L. 85-507, § 5, 72 Stat. 329.
(b)	5 U.S.C. 2317(a).	July 7, 1958, Pub. L. 85-507, § 18(a), 72 Stat. 335.

In subsection (a), the words "Within ninety days after the date of enactment of this Act [July 7, 1958]" are omitted as obsolete.

In subsection (b), the words "training of employees under this chapter" are substituted for "training of employees by, in, and through Government facilities and non-Government facilities under authority of this chapter."

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CENTRAL INTELLIGENCE AGENCY

Exceptions of Central Intelligence Agency from provisions of this section and certain other provisions of this chapter and section 1308 of this title, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, set out as a note under section 4102 of this title.

CROSS REFERENCES

Report to President on training of employees under this chapter to include summary of information received under subsec. (b) of this section, see section 1308 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1308 of this title.

§ 4114. Non-Government facilities; review of training programs

The Civil Service Commission, at the times and to the extent it considers necessary, shall review the operations, activities, and related transactions of each agency in connection with each agency program, and plan thereunder, for the training of its employees by, in, and through non-Government facilities under this chapter in order to determine whether the operations, activities, and related transactions comply with the programs and plans, the provisions and purposes of this chapter, and the principles, standards, and related requirements contained in the regulations prescribed under section 4118 of this title. Each agency, on request of the Commission, shall cooperate and assist in the review. If the Commission finds that noncompliance exists in an agency, the Commission, after consultation with the agency, shall certify to the head of the agency its recommendations for change of actions and procedures. If, after a reasonable time for placing its recommendations in effect, the Commission finds that noncompliance continues to exist in the agency, the Commission shall report the finding to the President for such action as he considers appropriate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 438.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2314	July 7, 1958, Pub. L. 85-507, § 15, 72 Stat. 334.

The words "modification or" are omitted as redundant.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CENTRAL INTELLIGENCE AGENCY

Exception of Central Intelligence Agency from provisions of this section and certain other provisions of this chapter and section 1308 of this title, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, set out as a note under section 4102 of this title.

§ 4115. Collection of training information

The Civil Service Commission, to the extent it considers appropriate in the public interest, may collect information concerning training programs, plans, and the methods inside and outside the Government. The Commission, on request, may make the information available to an agency and to Congress.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 438.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2315	July 7, 1958, Pub. L. 85-507, § 16, 72 Stat. 335.

In the first sentence, the words "from time to time" are omitted as unnecessary. In the second sentence, the word "appropriate" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CENTRAL INTELLIGENCE AGENCY

Exception of Central Intelligence Agency from provisions of this section and certain other provisions of this chapter and section 1308 of this title, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, set out as a note under section 4102 of this title.

§ 4116. Training program assistance

The Civil Service Commission, on request of an agency, shall advise and assist in the establishment, operation, and maintenance of the training programs and plans of the agency under this chapter, to the extent of its facilities and personnel available for that purpose.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 438.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2316	July 7, 1958, Pub. L. 85-507, § 17, 72 Stat. 335.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 4117. Administration

The Civil Service Commission has the responsibility and authority for effective promotion and coordination of the training programs under this chapter and training operations thereunder. The functions, duties, and responsibilities of the Commission under this chapter are subject to supervision and control by the President and review by Congress.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 438.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2301(4)	July 7, 1958, Pub. L. 85-507, § 2(4), 72 Stat. 328.
....	5 U.S.C. 2318(e)	July 7, 1958, Pub. L. 85-507, § 19(e), 72 Stat. 336.

Former sections 2301(4) and 2318(e) are combined and restated for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CENTRAL INTELLIGENCE AGENCY

Exception of Central Intelligence Agency from provisions of subd. (4) of this section and certain other provisions of this chapter and section 1308 of this title, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, set out as a note under section 4102 of this title.

§ 4118. Regulations

(a) The Civil Service Commission, after considering the needs and requirements of each agency for training its employees and after consulting with the agencies principally concerned, shall prescribe regulations containing the principles, standards, and related requirements for the programs, and plans thereunder, for the training of employees under this chapter, including requirements for coordination of and reasonable uniformity in the agency training programs and plans. The regulations shall provide for the maintenance of necessary information concerning the general conduct of the training activities of each agency, and such other information as is necessary to enable the President and Congress to discharge effectively their respective duties and responsibilities for supervision, control, and review of these training programs. The regulations also shall cover—

(1) requirements concerning the determination and continuing review by each agency of its training needs and requirements;

(2) the scope and conduct of the agency training programs and plans;

(3) the selection and assignment of employees of each agency for training;

(4) the use in each agency of the services of employees who have undergone training;

(5) the evaluation of the results and effects of the training programs and plans;

(6) the interchange of training information among the agencies;

(7) the submission of reports by the agencies on results and effects of training programs and plans and economies resulting therefrom, including estimates of costs of training by, in, and through non-Government facilities;

(8) requirements and limitations necessary with respect to payments and reimbursements in accordance with section 4109 of this title; and

(9) other matters considered appropriate or necessary by the Commission to carry out the provisions of this chapter.

(b) In addition to the matters set forth by subsection (a) of this section, the regulations, concerning training of employees by, in, or through non-Government facilities, shall—

(1) prescribe general policies governing the selection of a non-Government facility to provide training;

(2) authorize training of employees only after the head of the agency concerned determines that adequate training for employees by, in, or through a Government facility is not reasonably available, and that consideration has been given to the existing or reasonably foreseeable availability and use of fully trained employees; and

(3) prohibit training an employee for the purpose of filling a position by promotion if there is in the agency concerned another employee, of equal ability and suitability, fully qualified to fill the position and available at, or within a reasonable distance from, the place where the duties of the position are to be performed.

(c) The Commisson, in accordance with this chapter, may revise, supplement, or abolish regulations prescribed under this section, and prescribe additional regulations.

(d) This section does not authorize the Commission to prescribe the types and methods of intra-agency training or to regulate the details of intra-agency training programs.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 438.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2305	July 7, 1958, Pub. L. 85-507, § 6, 72 Stat. 329.

In subsection (a), the word "appropriate" is omitted as unnecessary. The words "with respect to training by, in, and through Government facilities and non-Government facilities" are omitted as unnecessary.

In subsection (b)(2) and (3), the words "by, in, or through a non-Government facility" are omitted as unnecessary in view of the previous reference in the subsection.

In subsection (c), the words "From time to time" are omitted as unnecessary.

In subsection (d), the prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CENTRAL INTELLIGENCE AGENCY

Exception of Central Intelligence Agency from provisions of this section and certain other provisions of this chapter and section 1308 of this title, see Ex. Ord. No. 10805, Feb. 18, 1959, 24 F.R. 1301, set out as a note under section 4102 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 4103, 4105, 4106, 4108, 4109, 4114 of this title.

CHAPTER 43—PERFORMANCE RATING

Sec.
4301. Definitions.
4302. Performance-rating plans; establishment of.
4303. Performance-rating plans; requirements for.
4304. Ratings for performance.
4305. Review of ratings.
4306. Performance-rating plans; inspection of.
4307. Other rating procedures prohibited.
4308. Regulations.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 20 section 241.

§ 4301. Definitions

For the purpose of this chapter—

(1) "agency" means—

(A) an Executive agency;

(B) the Administrative Office of the United States Courts;

(C) the Library of Congress;

(D) the Botanic Garden;

(E) the Government Printing Office; and

(F) the government of the District of Columbia;

but does not include—

(i) the Tennessee Valley Authority;

[(ii) Repealed. Pub. L. 91-375, § 6(c)(8), Aug. 12, 1970, 84 Stat. 776];

(iii) the Foreign Service of the United States;

(iv) the Atomic Energy Commission;

(v) the Central Intelligence Agency;

(vi) the National Security Agency; or

(vii) a Government controlled corporation; and

(2) "employee" means an individual employed in or under an agency, but does not include—

(A) a physician, dentist, nurse, or other employee in the Department of Medicine and Surgery, Veterans' Administration, whose pay is fixed under chapter 73 of title 38;

(B) an employee outside the continental United States who is paid in accordance with local native prevailing wage rates for the area in which employed;

(C) a civilian officer or member of a crew of a vessel operated by the Department of the Army or the Department of the Navy;

(D) an individual employed by the government of the District of Columbia whose pay is not fixed under chapter 51 and subchapter III of chapter 53 of this title; or

(E) a hearing examiner appointed under section 3105 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 440; Pub. L. 91-375, § 6(c)(8), Aug. 12, 1970, 84 Stat. 776.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2001	Sept. 30, 1950, ch. 1123, § 2, 64 Stat. 1098.
		Sept. 1, 1954, ch. 1208, § 601 (a), 68 Stat. 1115.
		June 17, 1957, Pub. L. 85-56, § 2201(21), 71 Stat. 159.
		July 11, 1957, Pub. L. 85-101, 71 Stat. 293.
		Sept. 2, 1958, Pub. L. 85-857, § 13(p), 72 Stat. 1266.
		Mar. 26, 1964, Pub. L. 88-290, "Sec. 306(b)", 78 Stat. 170.

In paragraph (1), the term "Executive agency" is substituted for the reference to "executive departments, the independent establishments and agencies in the executive branch, including corporations wholly owned by the United States" and "the General Accounting Office". The exception of "a Government controlled corporation" is added in subparagraph (vii) to preserve the application of this chapter to "corporations wholly owned by the United States". The exceptions for Production credit corporations and Federal intermediate credit banks in former section 2001(b)(5), (6) are omitted as they are no longer "corporations wholly owned by the United States". Under the Farm Credit Act of 1956, 70 Stat. 659, the production credit corporations were merged in the Federal intermediate credit banks, and pursuant to that Act the Federal intermediate credit banks have ceased to be corporations owned by the United States. The exceptions for Federal land banks and banks for cooperatives in former section 2001(b)(7), (8) are omitted as included within the exception of "a Government controlled corporation" in subparagraph (vii).

Paragraph (2) is supplied because the definition of "employee" in section 2105 does not encompass individuals employed by the government of the District of Columbia. The definition in paragraph (2) does not encompass members of the uniformed services as they are not "employed" in or under an agency.

Paragraph (2)(E) is based on the third and fifth sentences, respectively, of former sections 1010 and 1011, which are carried into sections 5362 and 559, respectively, and section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1970—Par. (1)(ii). Pub. L. 91-375 repealed cl. (ii) which excluded the postal field service from the definition of "agency".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

CROSS REFERENCES

Additional requirements imposed by statute or otherwise recognized by law not limited or repealed by par. (2)(E) of this section, see section 559 of this title.

Civil Service Commission, investigations, reports, and regulations for purposes of par. (2)(E) of this section as relating to hearing examiners, see section 1305 of this title.

Executive agency, see section 105 of this title.

Subsequent statutes to be held to supersede or modify par. (2)(E) of this section only to the extent that they do so expressly, see section 559 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 559, 1305 of this title.

§ 4302. Performance-rating plans; establishment of

For the purpose of recognizing the merits of employees and their contributions to efficiency and economy in the Federal service, each agency shall establish and use one or more performance-rating plans for evaluating the work performance of its employees.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 440.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2002	Sept. 30, 1950, ch. 1123, § 3, 64 Stat. 1098.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 4303. Performance-rating plans; requirements for

Each performance-rating plan shall be as simple as possible and shall provide—

(1) that performance requirements be made known to all employees;

(2) that performance of the employee be fairly appraised in relation to the requirements;

(3) for use of appraisals to improve employee performance;

(4) for strengthening supervisor-employee relationships; and

(5) that each employee be kept currently advised of his performance and promptly notified of his performance rating.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 440.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2004	Sept. 30, 1950, ch. 1123, § 5, 64 Stat. 1098.

The words "required by this chapter" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 4304. Ratings for performance

(a) Each performance-rating plan shall provide for ratings representing at least—

(1) satisfactory performance;

(2) unsatisfactory performance; and

(3) outstanding performance.

(b) An employee may be rated unsatisfactory only after a 90-day advance warning and after a reasonable opportunity to demonstrate satisfactory performance. A performance rating of unsatisfactory is a basis for removal from the position in which the performance was unsatisfactory.

(c) A performance rating of outstanding may be given only when all aspects of performance not only exceed normal requirements but are outstanding and deserve special commendation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 440.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2005	Sept. 30, 1950, ch. 1123, § 6, 64 Stat. 1099.

In subsection (a) (1), the words "corresponding to an efficiency rating of 'good' under the Veterans' Preference Act of 1944, as amended, and under laws superseded by this chapter" in clause (1) of former section 2005 are omitted, but are carried into section 3502.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 4305. Review of ratings

(a) An agency, on request of an employee of that agency, shall provide one impartial review of the performance rating of the employee.

(b) Each agency shall establish one or more boards of review of equal jurisdiction to consider and pass on the merits of performance ratings under rating plans established under this chapter. Each board of review shall have three members, one member designated by the head of the agency, one member designated by the employees of the agency in the manner prescribed by the Civil Service Commission, and one member, who serves as chairman, designated by the Commission. Alternate members are designated in the same manner as their respective principals.

(c) In addition to the review under subsection (a) of this section, an employee with a current performance rating of less than satisfactory, on written appeal to the chairman of the appropriate board of review established under subsection (b) of this section, is entitled to a hearing and decision on the merits of the appealed rating. If an employee with a current performance rating of satisfactory has not requested and obtained review of the rating under subsection (a) of this section, he is entitled, on written appeal to the chairman of the appropriate board of review established under subsection (b) of this section, to a hearing and decision on the merits of the appealed rating.

(d) At the hearing the appellant, or his designated representative, and representatives of the agency are entitled to submit pertinent information orally or in writing, and to hear or examine, and reply to, information submitted by others. After the hearing, the board of review shall confirm the appealed rating or make such change as it considers proper.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 441.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2006	Sept. 30, 1950, ch. 1123, § 7, 64 Stat. 1099.

In subsection (c), the words "as a matter of right" are omitted as unnecessary.

In subsection (d), the words "are entitled" are substituted for "shall be afforded an opportunity". The word "considers" is substituted for "deems to be".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 4306. Performance-rating plans; inspection of

(a) The Civil Service Commission shall inspect the administration of performance-rating plans by each agency to determine compliance with the requirements of this chapter and the regulations prescribed thereunder.

(b) When the Commission determines that a performance-rating plan does not meet the requirements of this chapter and the regulations prescribed thereunder, the Commission, after notice to the agency giving the reasons, may revoke its approval of the plan. After revocation, the performance-rating plan and any current ratings thereunder are inoperative, and the agency thereafter shall use a performance-rating plan prescribed by the Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 441.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2007 (less (a)).	Sept. 30, 1950, ch. 1123, § 8 (less (a)), 64 Stat. 1099.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 4307. Other rating procedures prohibited

An employee may not be given a performance rating, regardless of the name given to the rating, and a rating may not be used as a basis for any action, except under a performance-rating plan approved by the Civil Service Commission as meeting the requirements of this chapter.

(Pub. L. 89-554 Sept. 6, 1966, 80 Stat. 441.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2003	Sept. 30, 1950, ch. 1123, § 4, 64 Stat. 1098.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 4308. Regulations

The Civil Service Commission may prescribe regulations necessary for the administration of this chapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 442.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2007 (a).	Sept. 30, 1950, ch. 1123, § 8(a), 64 Stat. 1099.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CHAPTER 45—INCENTIVE AWARDS

Sec.
4501. Definitions.
4502. General provisions.
4503. Agency awards.
4504. Presidential awards.
4505. Awards to former employees.
4506. Regulations.

Chapter Referred to in Other Sections

This chapter is referred to in sections 1308, 3362 of this title.

§ 4501. Definitions

For the purpose of this chapter—

(1) "agency" means—

(A) an Executive agency;

(B) the Administrative Office of the United States Courts;

(C) the Library of Congress;

(D) the Office of the Architect of the Capitol;

(E) the Botanic Garden;

(F) the Government Printing Office; and

(G) the government of the District of Columbia;

but does not include—

(i) the Tennessee Valley Authority; or

(ii) the Central Bank for Cooperatives;

(2) "employee" means—

(A) an employee as defined by section 2105 of this title; and

(B) an individual employed by the government of the District of Columbia; and

(3) "Government" means the Government of the United States and the government of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 442.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2122	Sept. 1, 1954, ch. 1208, § 303, 68 Stat. 1113. Aug. 18, 1959, Pub. L. 86-168, § 202(d), 73 Stat. 389.

In paragraph (1), the term "Executive agency" is coextensive with and substituted for "executive department or independent agency in the executive branch of the Government including a Government-owned or controlled corporation" in view of the definition of "Executive agency" in section 105. Application to the General Accounting Office (included in the term "Executive agency") is based on former section 933a.

Paragraph (2) is supplied because the definition of "employee" in section 2105 does not encompass individuals employed by the government of the District of Columbia.

Paragraph (3) is supplied for clarity and convenience.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Executive agency, see section 105 of this title.

Report and recommendations to President on results of incentive awards program under this chapter, see section 1308 of this title.

Section Referred to in Other Sections

This section is referred to in section 3362 of this title.

§ 4502. General provisions

(a) Except as provided by subsection (b) of this section, a cash award under this chapter may not exceed $5,000.

(b) When the head of an agency certifies to the Civil Service Commission that the suggestion, invention, superior accomplishment, or other meritorious effort for which the award is proposed is highly exceptional and unusually outstanding, a cash award in excess of $5,000 but not in excess of $25,000 may be granted with the approval of the Commission.

(c) A cash award under this chapter is in addition to the regular pay of the recipient. Acceptance of a cash award under this chapter constitutes an agreement that the use by the Government of an idea, method, or device for which the award is made does not form the basis of a further claim of any nature against the Government by the employee, his heirs, or assigns.

(d) A cash award to, and expense for the honorary recognition of, an employee may be paid from the fund or appropriation available to the activity primarily benefiting or the various activities benefiting. The head of the agency concerned determines the amount to be paid by each activity for an agency award under section 4503 of this title. The President determines the amount to be paid by each activity for a Presidential award under section 4504 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 442.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2123(d), (e), (g).	Sept. 1, 1954, ch. 1208, § 304 (d), (e), (g), 68 Stat. 1113.

In subsections (a) and (b), the words "cash award" are substituted for "monetary award" and "such award" to conform to the remainder of the chapter.

In subsection (c), the word "Government" is substituted for "Government of the United States or the government of the District of Columbia" in view of the definition of "Government" in section 4501.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Delegation of Functions

Functions of the President under former section 2123 (e) [now subsec. (d)] of this section delegated to the Chairman of the Civil Service Commission, see section 2 of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

Cross References

Weight to be accorded incentive awards under this chapter in selecting employees for promotions, see section 3362 of this title.

§ 4503. Agency awards

The head of an agency may pay a cash award to, and incur necessary expense for the honorary recognition of, an employee who—

(1) by his suggestion, invention, superior accomplishment, or other personal effort contributes to the efficiency, economy, or other improvement of Government operations; or

(2) performs a special act or service in the public interest in connection with or related to his official employment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 443.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2123(a).	Sept. 1, 1954, ch. 1208, § 304(a), 68 Stat. 1113.

The word "employee" is substituted for "civilian officers and employees of the Government" in view of the definition of "employee" in section 4501.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Cash awards for suggestions, inventions or scientific achievements, see section 1124 of Title 10, Armed Forces.

Section Referred to in Other Sections

This section is referred to in sections 4502, 4504 of this title.

§ 4504. Presidential awards

The President may pay a cash award to, and incur necessary expense for the honorary recognition of, an employee who—

(1) by his suggestion, invention, superior accomplishment, or other personal effort contributes to the efficiency, economy, or other improvement of Government operations; or

(2) performs an exceptionally meritorious special act or service in the public interest in connection with or related to his official employment.

A Presidential award may be in addition to an agency award under section 4503 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 443.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2123(b).	Sept. 1, 1954, ch. 1208, § 304(b), 68 Stat. 1113.

The words "In instances determined by the President to warrant such action" are omitted as surplusage. The word "employee" is substituted for "civilian officers and employees of the Government" in view of the definition of "employee" in section 4501.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

PERFORMANCE OF FUNCTIONS

Functions vested in Civil Service Commission under this section insofar as it affects officers and employees in or under the executive branch of the government to be performed without approval of President, see section 1(1) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

CROSS REFERENCES

Cash awards for suggestions, inventions or scientific achievements, see section 1124 of Title 10, Armed Forces.

EX. ORD. NO. 9586. THE PRESIDENTIAL MEDAL OF FREEDOM

Ex. Ord. No. 9586, July 6, 1945, 10 F.R. 8523, as amended by Ex. Ord. No. 10336, Apr. 3, 1952, 17 F.R. 2957; Ex. Ord. No. 11085, Feb. 22, 1963, 28 F.R. 1759; Ex. Ord. No. 11515, Mar. 13, 1970, 35 F.R. 4543, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the armed forces of the United States, it is ordered as follows:

SECTION 1. *Medal established.* The Medal of Freedom is hereby reestablished as the Presidential Medal of Freedom, with accompanying ribbons and appurtenances. The Presidential Medal of Freedom, hereinafter referred to as the Medal, shall be in two degrees.

SEC. 2. *Award of the Medal.* (a) The Medal may be awarded by the President as provided in this order to any person who has made an especially meritorious contribution to (1) the security or national interests of the United States, or (2) world peace, or (3) cultural or other significant public or private endeavors.

(b) The President may select for the award of the Medal any person recommended to the President for award of the Medal or any person selected by the President upon his own initiative.

(c) The principal announcement of awards of the Medal shall normally be made annually, on or about July 4 of each year; but such awards may be made at other times, as the President may deem appropriate.

(d) Subject to the provision of this Order, the Medal may be awarded posthumously.

SEC. 3. *Distinguished Civilian Service Awards Board.* (a) The Distinguished Civilian Service Awards Board, established by Executive Order No. 10717 of June 27, 1957, hereinafter referred to as the Board, is hereby expanded, for the purpose of carrying out the objectives of this Order, to include five additional members appointed by the President from outside the Executive Branch of the Government. The terms of service of the members of the Board appointed under this paragraph shall be five years, except that the first five members so appointed shall have terms of service expiring on the 31st day of July 1964, 1965, 1966, 1967, and 1968, respectively. Any person appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall serve for the remainder of such term.

(b) A chairman of the Board shall be designated by the President from time to time from among the membership of the Board appointed from the Executive Branch.

(c) For purposes of recommending to the President persons to receive the President's Award for Distinguished Federal Civilian Service, and to carry out the other purposes of Executive Order No. 10717, only the members of the Board from the Executive Branch will sit. The names of persons so recommended will be submitted to the President without reference to the other members of the Board.

SEC. 4. *Functions of the Board.* (a) Any individual or group may make recommendations to the Board with respect to the award of the Medal, and the Board shall consider such recommendations.

(b) With due regard for the provisions of Section 2 of this Order, the Board shall screen such recommendations and, on the basis of such recommendations or upon its own motion, shall from time to time submit to the President nominations of individuals for award of the Medal, in appropriate degrees.

SEC. 5. *Expenses.* Necessary administrative expenses of the Board incurred in connection with the recommendation of persons to receive the Presidential Medal of Freedom, including expenses of travel of members of the Board appointed under Section 3(a) of this Order, during the fiscal year 1963, may be paid from the appropriation provided under the heading "Special Projects" in the Executive Office Appropriation Act, 1963, 76 Stat. 315, and during subsequent fiscal years, to the extent permitted by law, from any corresponding or like appropriation made available for such fiscal years. Such payments shall be without regard to the provisions of section 3681 of the Revised Statutes and section 9 of the Act of March 4, 1909, 35 Stat. 1027 (31 U.S.C. 672 and 673). Members of the Board appointed under Section 3(a) of this Order shall serve without compensation.

SEC. 6. *Design of the Medal.* The Army Institute of Heraldry shall prepare for the approval of the President a design of the Medal in each of its degrees.

EX. ORD. NO. 10717. PRESIDENT'S AWARD FOR DISTINGUISHED FEDERAL CIVILIAN SERVICE

Ex. Ord. No. 10717, June 27, 1957, 22 F.R. 4632, as amended by Ex. Ord. No. 10979, Dec. 12, 1961, 26 F.R. 11937; Ex. Ord. No. 11085, Feb. 22, 1963, 28 F.R. 1759, provided:

SECTION 1. There is hereby established an honorary award for the recognition of distinguished service by civilian officers and employees of the Federal Government. The award shall be known as the President's Award for Distinguished Federal Civilian Service, and shall consist of a gold medal, the design of which accompanies and is hereby made a part of this order, suspended on a ribbon of appropriate material and color, and accompanying appurtenances. Each medal shall be suitably inscribed, and an appropriate citation shall accompany each award.

SEC. 2. (a) The President's Award for Distinguished Federal Civilian Service shall be presented by the President to civilian officers or employees of the Federal Government for the best achievements having current impact in improving Government operations or serving the public interest. These achievements shall exemplify one or more of the following:

(1) Imagination in developing creative solutions to problems of government.

(2) Courage in persevering against great odds and difficulties.

(3) High ability in accomplishing extraordinary scientific or technological achievement, in providing outstanding leadership in planning, organizing, or directing a major program of unusual importance and complexity, or in performing an extraordinary act of credit to the Government and the country.

(4) Long and distinguished career service.

(b) The importance of the achievements to the Government and to the public interest shall be so outstanding that the officer or employee is deserving of greater public recognition than that which can be accorded by the head of the department or agency in which he is employed. Generally, not more than five awards shall be made in any one year. Presentation of the award shall be made at such times as the President may determine.

SEC. 3. There is hereby established the Distinguished Civilian Service Awards Board (hereinafter referred to as the Board), which shall consist of five members, appointed by the President from the Federal civilian service. The Chairman of the Board shall be designated by the President from the membership of the Board.

SEC. 4. The members of the Board shall serve at the pleasure of the President.

SEC. 5. The members of the Board shall serve as such without additional compensation. The Chairman of the Civil Service Commission, or his designated representative, shall serve as Executive Secretary of the Board, and the Civil Service Commission is requested to furnish the Board the necessary staff and other services.

SEC. 6. The Board shall advise and assist the President in the selection of persons to whom the award shall be tendered. In performing its functions, the Board shall carefully review recommendations submitted to it and decide which of them, if any, warrant presentation to the President, and shall transmit to the President, for his consideration, the names of those persons deemed by it to merit the award, together with its reasons therefor. Recipients for the award shall be selected by the President.

SEC. 7. The Board is authorized to prescribe the method and form for making nominations for this award, but the Board shall not recommend a nominee for the award without the concurrence of the head of the agency in which the nominee was employed at the time of the achievement for which the award is recommended.

SEC. 8. The Board shall be guided in the performance of its functions by the provisions of subsections (b) and (c) of section 304 of the Government Employees' Incentive Awards Act [subsecs. (b) and (c) of former section 2123 (now sections 4501(2)(A), 4504, and 4505, respectively of this title], and by any additional criteria established by the Board. Persons appointed by the President shall not be eligible for this award unless, in the opinion of the Board, they are currently serving in a career position.

SEC. 9. This order shall become effective on July 1, 1957.

DWIGHT D. EISENHOWER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 4502 of this title.

§ 4505. Awards to former employees

An agency may pay or grant an award under this chapter notwithstanding the death or separation from the service of the employee concerned, if the suggestion, invention, superior accomplishment, other personal effort, or special act or service in the public interest for which the award is proposed was made or performed while the employee was in the employ of the Government.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 443.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2123(c)	Sept. 1, 1954, ch. 1208 § 304(c), 68 Stat. 1113.

The words "or grant" are added for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 4506. Regulations

The Civil Service Commission may prescribe regulations and instructions under which the agency awards program set forth by this chapter shall be carried out.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 443.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2121 (1st 29 words).	Sept. 1, 1954, ch. 1208, § 302 (1st 29 words), 68 Stat. 1112.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Subpart D—Pay and Allowances

CHAPTER 51—CLASSIFICATION

Sec.
5101. Purpose.
5102. Definitions; application.
5103. Determination of applicability.
5104. Basis for grading positions.
5105. Standards for classification of positions.
5106. Basis for classifying positions.
5107. Classification of positions.
5108. Classification of positions at GS-16, 17, and 18.
5109. Positions classified by statute.
5110. Review of classification of positions.
5111. Revocation and restoration of authority to classify positions.
5112. General authority of the Civil Service Commission.
5113. Classification records.
5114. Reports; positions in GS-16, 17, and 18.
5115. Regulations.

CROSS REFERENCES

Antidiscrimination in employment in administration of this chapter, see section 7154 of this title.

Presidential policies and regulations, see section 5304 of this title.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3101, 3102, 3109, 3374, 4301, 5304, 5331, 5334, 5337, 5341, 5342, 5348, 5362, 5541, 5544, 5545, 7154 of this title; title 2 sections 60e-2, 60e-2a, 60e-2b, 60e-6, 162a, 166, 197, 293, 353, 356; title 4 section 142; title 7 sections 511m, 610, 1507, 1642, 1981; title 8 section 1103; title 10 sections 4540, 7212, 9540; title 12 sections 1701c, 2405; title 13 section 23; title 15 sections 78d, 78s, 79z-5, 80a-45, 80b-18, 205i, 278a, 327, 634d, 714g, 714h, 715h, 717q, 766, 1023, 1942, 2053, 2451; title 16 sections 81c, 450jj-1, 460m, 470m, 590d, 793, 825i, 832i, 833h, 916*l*; title 18 section 4001; title 20 sections 74, 75f, 76dd, 80g, 241, 1089, 1102, 1146, 1221d, 1221e, 1417, 2106; title 21 section 1115; title 22 sections 272a, 277d-3, 277d-19, 280b, 280i, 280k, 287e, 287r, 289b, 290b, 886, 928, 1044, 2024, 2083, 2454, 2581, 2873; 3008; title 25 sections 2a, 305a, 633, 640, 640d-11; title 26 sections 7471, 9010, 9040; title 28 sections 603, 625, 626; title 29 sections 172, 661, 676; title 30 sections 556, 664, 729; title 33 sections 984, 1325, 1374; title 38 sections 2003, 2014, 4107; title 40 sections 13b, 166b-1f, 166b-3, 174j-8, 609, 873; title 41 sections 46, 104; title 42 sections 246, 1563, 1731, 1855f, 1863, 1873, 1962a-4, 2000e-4, 2000g, 2201, 2471, 2473, 3525, 4276, 4372, 5042, 5149; title 43 sections 316n, 1399, 1616; title 44 section 2503; title 45 sections 154, 362; title 47 section 154; title 49 section 1441; title 50 section 404; title 50 App. sections 460, 2169.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 1-251, 1-518, 2-408, 2-1211, 2-1726, 2-1808, 2-2224, 2-2225, 2-2415, 5-426, 5-713, 6-1203, 6-1712, 6-1713, 6-1730, 6-1912, 8-209, 9-146, 11-1726, 11-2102, 25-104, 25-104a, 29-935, 29-1093, 31-1301, 31-1402, 31-1603, 31-1622, 31-1905, 33-422, 35-401, 36-437, 40-603, 40-715, 40-809, 45-1634 of the District of Columbia Code.

§ 5101. Purpose

It is the purpose of this chapter to provide a plan for classification of positions whereby—

(1) in determining the rate of basic pay which an employee will receive—

(A) the principle of equal pay for substantially equal work will be followed; and

(B) variations in rates of basic pay paid to different employees will be in proportion to substantial differences in the difficulty, responsibility, and qualification requirements of the work performed and to the contributions of employees to efficiency and economy in the service; and

(2) individual positions will, in accordance with their duties, responsibilities, and qualification requirements, be so grouped and identified by classes and grades, as defined by section 5102 of this title, and the various classes will be so described in published standards, as provided by section 5105 of this title, that the resulting position-classification system can be used in all phases of personnel administration.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 443.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1071	Oct. 28, 1949, ch. 782, § 101, 63 Stat. 954.

The words "and for rates of basic compensation" are omitted as inapplicable to this chapter since the provisions of former chapter 21 relating to rates of basic compensation are carried into subchapter III of chapter 53. The word "officer" is omitted as included in "employee" is defined in section 5102.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of the report.

CROSS REFERENCES

Employment of reading assistants for blind employees without regard to the provisions of this chapter, see section 3102 of this title.

General authority for employment, see section 3101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540.

§ 5102. Definitions; application

(a) For the purpose of this chapter—

(1) "agency" means—

(A) an Executive agency;

(B) the Administrative Office of the United States Courts;

(C) the Library of Congress;

(D) the Botanic Garden;

(E) the Government Printing Office;

(F) the Office of the Architect of the Capitol; and

(G) the government of the District of Columbia;

but does not include—

(i) a Government controlled corporation;

(ii) the Tennessee Valley Authority;

(iii) The Alaska Railroad;

(iv) the Virgin Islands Corporation;

(v) the Atomic Energy Commission;

(vi) the Central Intelligence Agency;

(vii) the Panama Canal Company; or

(viii) the National Security Agency, Department of Defense;

(2) "employee" means an individual employed in or under an agency;

(3) "position" means the work, consisting of the duties and responsibilities, assignable to an employee;

(4) "class" or "class of positions" includes all positions which are sufficiently similar, as to—

(A) kind or subject-matter of work;

(B) level of difficulty and responsibility; and

(C) the qualification requirements of the work;

to warrant similar treatment in personnel and pay administration; and

(5) "grade" includes all classes of positions which, although different with respect to kind or subject-matter of work, are sufficiently equivalent as to—

(A) level of difficulty and responsibility; and

(B) level of qualification requirements of the work;

to warrant their inclusion within one range of rates of basic pay in the General Schedule.

(b) Except as provided by subsections (c) and (d) of this section, this chapter applies to all civilian positions and employees in or under an agency, including positions in local boards and appeal boards within the Selective Service System and employees occupying those positions.

(c) This chapter does not apply to—

[(1) Repealed. Pub. L. 91-375, § 6(c)(9), Aug. 12, 1970, 84 Stat. 776;]

(2) employees in the Foreign Service of the United States whose pay is fixed under chapter 14 of title 22; and positions in or under the Department of State which are—

(A) connected with the representation of the United States to international organizations; or

(B) specifically exempted by statute from this chapter or other classification or pay statute;

(3) physicians, dentists, nurses, and other employees in the Department of Medicine and Surgery, Veterans' Administration, whose pay is fixed under chapter 73 of title 38;

(4) teachers, school officials, and employees of the Board of Education of the District of Columbia whose pay is fixed under chapter 15 of title 31, District of Columbia Code; the chief judges and the associate judges of the Superior Court of the District of Columbia and the District of Columbia Court of Appeals; and nonjudicial employees of the District of Columbia court system whose pay is fixed under title 11 of the District of Columbia Code;

(5) members of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, and the Executive Protective Service; and members of the

police force of the National Zoological Park whose pay is fixed under section 5365 of this title;

(6) lighthouse keepers and civilian employees on lightships and vessels of the Coast Guard whose pay is fixed under section 432 (f) and (g) of title 14;

(7) employees in recognized trades or crafts, or other skilled mechanical crafts, or in unskilled, semiskilled, or skilled manual-labor occupations, and other employees including foremen and supervisors in positions having trade, craft, or laboring experience and knowledge as the paramount requirement, and employees in the Bureau of Engraving and Printing whose duties are to perform or to direct manual or machine operations requiring special skill or experience, or to perform or direct the counting, examining, sorting, or other verification of the product of manual or machine operations;

(8) officers and members of crews of vessels;

(9) employees of the Government Printing Office whose pay is fixed under section 305 of title 44;

(10) civilian professors, lecturers, and instructors at the Naval War College and the Naval Academy whose pay is fixed under sections 6952 and 7478 of title 10; senior professors, professors, associate and assistant professors, and instructors at the Naval Postgraduate School whose pay is fixed under section 7044 of title 10; and the Academic Dean of the Postgraduate School of the Naval Academy whose pay is fixed under section 7043 of title 10;

(11) aliens or noncitizens of the United States who occupy positions outside the United States;

(12)(A) employees of an agency who are stationed in the Canal Zone; and

(B) on approval by the Civil Service Commission of the request of an agency which has employees stationed in both the Republic of Panama and the Canal Zone, employees of the agency who are stationed in the Republic of Panama;

(13) employees who serve without pay or at nominal rates of pay;

(14) employees whose pay is not wholly from appropriated funds of the United States, except that with respect to the Veterans' Canteen Service, Veterans' Administration this paragraph applies only to employees necessary for the transaction of the business of the Service at canteens, warehouses, and storage depots whose employment is authorized by section 4202 of title 38;

(15) employees whose pay is fixed under a cooperative agreement between the United States and—

(A) a State or territory or possession of the United States, or political subdivision thereof; or

(B) an individual or organization outside the service of the Government of the United States;

(16) student nurses, medical or dental interns, residents-in-training, student dietitians, student physical therapists, student occupational therapists, and other student employees, assigned or attached to a hospital, clinic, or laboratory primarily for training purposes, whose pay is fixed under subchapter V of chapter 53 of this title or section 4114 of title 38;

(17) inmates, patients, or beneficiaries receiving care or treatment or living in Government agencies or institutions;

(18) experts or consultants, when employed temporarily or intermittently in accordance with section 3109 of this title;

(19) emergency or seasonal employees whose employment is of uncertain or purely temporary duration, or who are employed for brief periods at intervals;

(20) employees employed on a fee, contract, or piece work basis;

(21) employees who may lawfully perform their duties concurrently with their private profession, business, or other employment, and whose duties require only a portion of their time, when it is impracticable to ascertain or anticipate the proportion of time devoted to the service of the Government of the United States;

(22) "teachers" and "teaching positions" as defined by section 901 of title 20;

(23) examiners-in-chief and designated examiners-in-chief in the Patent Office, Department of Commerce;

(24) temporary positions in the Bureau of the Census established under section 23 of title 13, and enumerator positions in the Bureau of the Census;

(25) positions for which rates of basic pay are individually fixed, or expressly authorized to be fixed, by other statute, at or in excess of the maximum rate for GS-18;

(26) civilian members of the faculty of the Coast Guard Academy whose pay is fixed under section 186 of title 14; or

(27) members of the special police force of the Library of Congress whose pay is fixed under section 167 of title 2.

(d) This chapter does not apply to an employee of the Office of the Architect of the Capitol whose pay is fixed by other statute. Subsection (c) of this section, except paragraph (7), does not apply to the Office of the Architect of the Capitol.

(Pub. L 89-554, Sept. 6, 1966, 80 Stat. 444; Pub. L. 90-83, § 1(11), Sept. 11, 1967, 81 Stat. 197; Pub. L. 90-610, § 2, Oct. 21, 1968, 82 Stat. 1201; Pub. L. 91-34, § 2(a), June 30, 1969, 83 Stat. 41; Pub. L. 91-358, title I, § 172(f), July 29, 1970, 84 Stat. 591; Pub. L. 91-375, § 6(c)(9), Aug. 12, 1970, 84 Stat. 776; Pub. L. 93-176, § 1, Dec. 5, 1973, 87 Stat. 693; Pub. L. 94-183, § 2(12), (13), Dec. 31, 1975, 89 Stat. 1057.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)(1)	5 U.S.C. 1081(a).	Oct. 28, 1949, ch. 782, § 201(a), 63 Stat. 954.
	5 U.S.C. 1082 (12)-(20), (32).	Oct. 28, 1949, ch. 782, § 202 (12)-(20), 63 Stat. 954. May 29, 1959, Pub. L. 86-36, § 1, 73 Stat. 63. Sept. 23, 1959, Pub. L. 86-370, § 6(a) (less (4)), 73 Stat. 652.

HISTORICAL AND REVISION NOTES—Continued

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)(3)-(5)	5 U.S.C. 1091	Oct. 28, 1949, ch. 782, § 301, 63 Stat. 957.
(b)	5 U.S.C. 1081(b).	Oct. 28, 1949, ch. 782, § 201(b), 63 Stat. 954.
(c)	5 U.S.C. 1082(1)-(6), (7) (less provisos), (8) (less last 31 words), (9)-(11), (21)-(31), (33)-(35).	Oct. 28, 1949, ch. 782, § 202 (1)-(6), (7) (less last 25 words), (8) (less last 31 words), (9)-(11), (21)-(31), 63 Stat. 954. Sept. 1, 1954, ch. 1208, § 105(a) "(7) (less provisos)", 68 Stat. 1106. June 17, 1957, Pub. L. 85-56, § 2201(20), 71 Stat. 159. July 25, 1958, Pub. L. 85-550, § 16 (a), (b) (1), 72 Stat. 411. Sept. 2, 1958, Pub. L. 85-857, § 13(o), 72 Stat. 1266. July 17, 1959, Pub. L. 86-91, § 3, 73 Stat. 213. Sept. 23, 1959, Pub. L. 86-370, § 6(a)(4), 73 Stat. 652. Sept. 13, 1960, Pub. L. 86-769, § 4, 74 Stat. 912.
(d)	5 U.S.C. 1084(b).	Oct. 28, 1949, ch. 782, § 204(b), 63 Stat. 957.

The section is reorganized and restated for clarity.

In subsection (a)(1)(i), the exception of "a Government controlled corporation" is added to preserve the application of this chapter to "corporations wholly owned by the United States". This is necessary as the defined term "Executive agency" includes the defined term "Government corporation" and the latter includes both Government owned and controlled corporations. Thus the exclusion of Government controlled corporations, which are distinct from wholly owned corporations, operates to preserve the application of the chapter to wholly owned corporations.

In subsection (a)(1)(vii), the words "Panama Canal Company" are substituted for "Panama Railroad Company" on authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a)(2), 64 Stat. 1038.

The exception for the Inland Waterways Corporation in former section 1082(13) is omitted on authority of the Act of July 19, 1963, Pub. L. 88-67, 77 Stat. 81.

The exceptions for Production Credit Corporations and Federal Intermediate Credit Banks in former section 1082(18) and (19) are omitted as they are no longer "corporations wholly owned by the United States". Under the Farm Credit Act of 1956, 70 Stat. 659, the Production Credit Corporations were merged in the Federal Intermediate Credit Banks, and pursuant to that Act the Federal Intermediate Credit Banks have ceased to be corporations wholly owned by the United States.

Subsection (a)(2) is added for clarity. The reference to "an individual employed in or under an agency" includes both officers and employees of an agency.

In subsection (a)(5), the words "in the General Schedule" are substituted for the reference in former section 1091(3) to "as specified in subchapter V of this chapter".

In subsection (b), the reference to former section 1085 is omitted as unnecessary. Former section 1085 which exempted certain agencies from former sections 1151-1153 is carried into section 305.

In subsection (c)(1), the words "chapter 45 of title 39" are substituted for the reference in former section 1082(1) to "chapter 23 of title 39" on authority of the Act of July 10, 1955, ch. 137, § 805, 69 Stat. 130, and the Act of Sept. 2, 1960, Pub. L. 86-682, § 5, 74 Stat. 705.

In subsection (c)(2)(B), the words "this chapter" are substituted for the reference in former section 1082(2)(B) to "the Classification Act of 1923, as amended," on authority of section 1106 of the Act of Oct. 28, 1949, 63 Stat. 972, and technical section 7(b).

In subsection (c)(4), the words "chapter 15 of title 31, District of Columbia Code" are substituted for the reference in former section 1082(4) to "the District of Columbia Teachers Salary Act of 1947, as supplemented by Public Law 151, Eighty-first Congress, approved June 30, 1949" on authority of the provisions contained therein. The words "District of Columbia Court of General Sessions" and "District of Columbia Court of Appeals" are substituted for "Municipal Court for the District of Columbia" and "Municipal Court of Appeals for the District of Columbia", respectively, on authority of D.C. Code §§ 11-902 and 11-702. The exception for judges of the Juvenile Court of the District of Columbia is based on D.C. Code § 11-1502.

In subsection (c)(5), the word "officers" is omitted as included in "member".

In subsection (c)(10), the words "sections 6952 and 7478 of title 10", "section 7044 of title 10", and "section 7043 of title 10" are substituted for the references in former section 1082(10) to "section 1071 of title 34", "sections 1076-1076f of title 34", and "section 1074 of title 34", respectively, on authority of the Act of Aug. 10, 1956, ch. 1041, § 49(b), 70A Stat. 640.

In subsection (c)(11), the words "the United States" are substituted for "the several States and the District of Columbia".

In subsection (c)(14), the words "employees necessary for the transaction of the business of the Service at canteens, warehouses, and storage depots whose employment is authorized by section 4202 of title 38" are substituted for the reference in former section 1082(23) to "positions which are exempt from this chapter, pursuant to section 4202 of title 38".

In subsection (c)(16), the reference to "section 4114 of title 38" is substituted for the reference in former section 1082(25) to "section 4114(b) of title 38" to reflect the pay fixing authority contained in subsection (a)(1) of section 4114.

In subsection (c)(22), the words "as defined by section 901 of title 20" are substituted for "as defined in the Defense Department Overseas Teachers Pay and Personnel Practices Act" on authority of former section 2351, which is scheduled for transfer to section 901 of title 20.

In subsection (c)(25), the word "schedule" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. The words "for GS-18" are substituted for "of the highest grade established by this chapter".

The second sentence of subsection (d) is based on former section 1084(c), which is carried into section 5103.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5102(c)(26).	5 App.: 1082(36).	June 9, 1966, Pub. L. 89-444, § 4, 80 Stat. 198.

The amendment to 5 U.S.C. 5102(c)(15) is made to correct a typographical error.

The amendment to 5 U.S.C. 5102(c)(26) reflects Public Law 89-444, section 4.

AMENDMENTS

1975—Subsec. (c)(5). Pub. L. 94-183, § 2(12), substituted "Executive Protective Service" for "White House Police".

Subsec. (c)(9). Pub. L. 94-183, § 2(13), substituted "305" for "40".

1973—Subsec. (b). Pub. L. 93-176 extended this chapter to include positions in local boards and appeal boards within the Selective Service System and employees occupying those positions.

1970—Subsec. (c)(1). Pub. L. 91-375 repealed provision declaring this chapter inapplicable to employees in the postal field service whose pay is fixed under chapter 45 of title 39.

Subsec. (c)(4). Pub. L. 91-358 expanded reference to include chief judges, substituted reference to the Superior Court of the District of Columbia for references to the District of Columbia Court of General Sessions and the Juvenile Court of the District of Columbia, and provided that chapter not apply to nonjudicial employees of the District of Columbia court system whose pay is fixed under title 11 of the District of Columbia Code.

1969—Subsec. (c)(5). Pub. L. 91-34 extended provisions to include members of the National Zoological Park police force whose pay is fixed under section 5365 of this title.

1968—Subsec. (c). Pub. L. 90-610 inserted par. (27).

Change of Name

The Patent Office, referred to in subsec. (c)(23), was redesignated the Patent and Trademark Office by Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

Effective Date of 1973 Amendment

Amendment by Pub. L. 93-176 effective not later than the beginning of the first pay period which begins on or after the 90th day following Dec. 5, 1973, see section 4 of Pub. L. 93-176, set out as a note under section 460 of the Appendix to Title 50, War and National Defense.

Effective Date of 1970 Amendments

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

Amendment by Pub. L. 91-358 effective the first day of the seventh calendar month which begins after July 29, 1970, see section 199(a) of Pub. L. 91-358, set out as a note under section 1257 of Title 28, Judiciary and Judicial Procedure.

Effective Date of 1969 Amendment

Amendment by Pub. L. 91-34 effective at the beginning of the first pay period which commences on or after June 30, 1969, see section 3(a) of Pub. L. 91-34, set out as a note under section 5365 of this title.

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-610 effective on the first day of the first pay period which begins on or after Oct. 21, 1968, see section 3 of Pub. L. 90-610, set out as a note under section 167 of Title 2, The Congress.

Effective Date of 1967 Amendment

Section 9(h) of Pub. L. 90-83 provided that: "Section 1(3) [amending section 1305 of this title], (10) [amending section 3324 of this title], (11) [amending this section], (12) [amending section 5108 of this title], (22) [enacting section 5534a of this title], (23) [amending the analysis for chapter 55 of this title], (83) (a) and (d) [amending section 8344 of this title], (89) [amending section 8521 of this title], (98) [amending section 902 of this title], (99) [amending section 903 of this title], and (100) [amending section 8113 of this title] of this Act is effective as of September 6, 1966, for all purposes."

Repeals

General repealer of provisions inconsistent with Pub. L. 92-392 as not repealing or affecting subsec. (d) of this section, see section 13 of Pub. L. 92-392, Aug. 19, 1972, 86 Stat. 575, set out as a note under section 5341 of this title.

Transfer of Functions

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

Prohibition of Decrease in Basic Pay Rate of Subsec. (c)(7), (8), or (14) Employees

Amendments by Pub. L. 92-392 not to decrease basic pay rate of subsec. (c)(7), (8), or (14) employees in service before effective date of the amendments as to such employees, see section 9(a)(2) of Pub. L. 92-392, Aug. 19, 1972, 86 Stat. 574, set out as a note under section 5343 of this title.

Reduction of Basic Pay Rate

Rate of basic pay not to be reduced by reason of the enactment of Pub. L. 91-34, which amended this section, see section 3(b) of Pub. L. 91-34, set out as a note under section 5365 of this title.

Cross References

Application of classification provisions to—
  Bureau of Indian Affairs, assistant or deputy commissioners, see section 2a of Title 25, Indians.
  Maritime agencies' officers and employees, see section 1111 of Title 46, Shipping.
  United States Maritime Service administrative enrollees, see section 1126 of Title 46.
Congressional investigations, see section 197 of Title 2, The Congress.
Nonapplication of classification provisions to—
  District of Columbia public works projects, see section 1563 of Title 42, The Public Health and Welfare.
  Merchant Marine Academy faculty, see section 1126 of Title 46, Shipping.
  National Gallery of Art, see section 74 of Title 20, Education.

Section Referred to in Other Sections

This section is referred to in sections 5101, 5103, 5331, 5341, 5342, 5348, 5349 of this title; title 10 sections 4540, 7212, 9540; title 20 section 903; title 29 section 218.

Section Referred to in D.C. Code

This section is referred to in section 31-1522 of the District of Columbia Code.

§ 5103. Determination of applicability

The Civil Service Commission shall determine finally the applicability of section 5102 of this title to specific positions and employees, except for positions and employees in the Office of the Architect of the Capitol.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 446.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1083	Oct. 28, 1949, ch. 782, § 203, 63 Stat. 956.
....	5 U.S.C. 1084(c)	Oct. 28, 1949, ch. 782, § 204(c), 63 Stat. 957. Sept. 1, 1954, ch. 1208, § 105(b), 68 Stat. 1106.

Former sections 1083 and 1084(c) are combined and restated for clarity. The words "hereinafter referred to as the Commission" in former section 1083 are omitted as unnecessary. The exception from "section

1082 (except paragraph (7) thereof)" in former section 1084(c) is carried into section 5102(d).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540.

§ 5104. Basis for grading positions

The General Schedule, the symbol for which is "GS", is the basic pay schedule for positions to which this chapter applies. The General Schedule is divided into 18 grades of difficulty and responsibility of work, as follows:

(1) Grade GS-1 includes those classes of positions the duties of which are to perform, under immediate supervision, with little or no latitude for the exercise of independent judgment—

(A) the simplest routine work in office, business, or fiscal operations; or

(B) elementary work of a subordinate technical character in a professional, scientific, or technical field.

(2) Grade GS-2 includes those classes of positions the duties of which are—

(A) to perform, under immediate supervision, with limited latitude for the exercise of independent judgment, routine work in office, business, or fiscal operations, or comparable subordinate technical work of limited scope in a professional, scientific, or technical field, requiring some training or experience; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(3) Grade GS-3 includes those classes of positions the duties of which are—

(A) to perform, under immediate or general supervision, somewhat difficult and responsible work in office, business, or fiscal operations, or comparable subordinate technical work of limited scope in a professional, scientific, or technical field, requiring in either case—

(i) some training or experience;

(ii) working knowledge of a special subject matter; or

(iii) to some extent the exercise of independent judgment in accordance with well-established policies, procedures, and techniques; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(4) Grade GS-4 includes those classes of positions the duties of which are—

(A) to perform, under immediate or general supervision, moderately difficult and responsible work in office, business, or fiscal operations, or comparable subordinate technical work in a professional, scientific, or technical field, requiring in either case—

(i) a moderate amount of training and minor supervisory or other experience;

(ii) good working knowledge of a special subject matter or a limited field of office, laboratory, engineering, scientific, or other procedure and practice; and

(iii) the exercise of independent judgment in accordance with well-established policies, procedures, and techniques; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(5) Grade GS-5 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, difficult and responsible work in office, business, or fiscal administration, or comparable subordinate technical work in a professional, scientific, or technical field, requiring in either case—

(i) considerable training and supervisory or other experience;

(ii) broad working knowledge of a special subject matter or of office, laboratory, engineering, scientific, or other procedure and practice; and

(iii) the exercise of independent judgment in a limited field;

(B) to perform, under immediate supervision, and with little opportunity for the exercise of independent judgment, simple and elementary work requiring professional, scientific, or technical training; or

(C) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(6) Grade GS-6 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, difficult and responsible work in office, business, or fiscal administration, or comparable subordinate technical work in a professional, scientific, or technical field, requiring in either case—

(i) considerable training and supervisory or other experience;

(ii) broad working knowledge of a special and complex subject matter, procedure, or practice, or of the principles of the profession, art, or science involved; and

(iii) to a considerable extent the exercise of independent judgment; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(7) Grade GS-7 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, work of considerable difficulty and responsibility along special technical or supervisory lines in office, business, or fiscal administration, or comparable subordinate technical work in a professional, scientific, or technical field, requiring in either case—

(i) considerable specialized or supervisory training and experience;

(ii) comprehensive working knowledge of a special and complex subject matter; procedure, or practice, or of the principles of the profession, art, or science involved; and

(iii) to a considerable extent the exercise of independent judgment;

(B) under immediate or general supervision, to perform somewhat difficult work requiring—

(i) professional, scientific, or technical training; and

(ii) to a limited extent, the exercise of independent technical judgment; or

(C) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(8) Grade GS-8 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, very difficult and responsible work along special technical or supervisory lines in office, business, or fiscal administration, requiring—

(i) considerable specialized or supervisory training and experience;

(ii) comprehensive and thorough working knowledge of a specialized and complex subject matter, procedure, or practice, or of the principles of the profession, art, or science involved; and

(iii) to a considerable extent the exercise of independent judgment; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(9) Grade GS-9 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, very difficult and responsible work along special technical, supervisory, or administrative lines in office, business, or fiscal administration, requiring—

(i) somewhat extended specialized training and considerable specialized, supervisory, or administrative experience which has demonstrated capacity for sound independent work;

(ii) thorough and fundamental knowledge of a special and complex subject matter, or of the profession, art, or science involved; and

(iii) considerable latitude for the exercise of independent judgment;

(B) with considerable latitude for the exercise of independent judgment, to perform moderately difficult and responsible work, requiring—

(i) professional, scientific, or technical training equivalent to that represented by graduation from a college or university of recognized standing; and

(ii) considerable additional professional, scientific, or technical training or experience which has demonstrated capacity for sound independent work; or

(C) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(10) Grade GS-10 includes those classes of positions the duties of which are—

(A) to perform, under general supervision, highly difficult and responsible work along special technical, supervisory, or administrative lines in office, business, or fiscal administration, requiring—

(i) somewhat extended specialized, supervisory, or administrative training and experience which has demonstrated capacity for sound independent work;

(ii) thorough and fundamental knowledge of a specialized and complex subject matter, or of the profession, art, or science involved; and

(iii) considerable latitude for the exercise of independent judgment; or

(B) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(11) Grade GS-11 includes those classes of positions the duties of which are—

(A) to perform, under general administrative supervision and with wide latitude for the exercise of independent judgment, work of marked difficulty and responsibility along special technical, supervisory, or administrative lines in office, business, or fiscal administration, requiring—

(i) extended specialized, supervisory, or administrative training and experience which has demonstrated important attainments and marked capacity for sound independent action or decision; and

(ii) intimate grasp of a specialized and complex subject matter, or of the profession, art, or science involved, or of administrative work of marked difficulty;

(B) with wide latitude for the exercise of independent judgment, to perform responsible work of considerable difficulty requiring somewhat extended professional, scientific, or technical training and experience which has demonstrated important attainments and marked capacity for independent work; or

(C) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(12) Grade GS-12 includes those classes of positions the duties of which are—

(A) to perform, under general administrative supervision, with wide latitude for the exercise of independent judgment, work of a very high order of difficulty and responsibility along special technical, supervisory, or administrative lines in office, business, or fiscal administration, requiring—

(i) extended specialized, supervisory, or administrative training and experience which has demonstrated leadership and attainments of a high order in specialized or administrative work; and

(ii) intimate grasp of a specialized and complex subject matter or of the profession, art, or science involved;

(B) under general administrative supervision, and with wide latitude for the exercise of independent judgment, to perform professional, scientific, or technical work of marked difficulty and responsibility requiring extended professional, scientific, or technical training and experience which has demonstrated leadership and attainments of a high order in professional, scientific, or technical research, practice, or administration; or

(C) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(13) Grade GS-13 includes those classes of positions the duties of which are—

(A) to perform, under administrative direction, with wide latitude for the exercise of independent judgment, work of unusual difficulty and responsibility along special technical, supervisory, or administrative lines, requiring extended specialized, supervisory, or administrative training and experience which has demonstrated leadership and marked attainments;

(B) to serve as assistant head of a major organization involving work of comparable level within a bureau;

(C) to perform, under administrative direction, with wide latitude for the exercise of independent judgment, work of unusual difficulty and responsibility requiring extended professional, scientific, or technical training and experience which has demonstrated leadership and marked attainments in professional, scientific, or technical research, practice, or administration; or

(D) to perform other work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(14) Grade GS-14 includes those classes of positions the duties of which are—

(A) to perform, under general administrative direction, with wide latitude for the exercise of independent judgment, work of exceptional difficulty and responsibility along special technical, supervisory, or administrative lines which has demonstrated leadership and unusual attainments;

(B) to serve as head of a major organization within a bureau involving work of comparable level;

(C) to plan and direct or to plan and execute major professional, scientific, technical, administrative, fiscal, or other specialized programs, requiring extended training and experience which has demonstrated leadership and unusual attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or

(D) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(15) Grade GS-15 includes those classes of positions the duties of which are—

(A) to perform, under general administrative direction, with very wide latitude for the exercise of independent judgment, work of outstanding difficulty and responsibility along special technical, supervisory, or administrative lines which has demonstrated leadership and exceptional attainments;

(B) to serve as head of a major organization within a bureau involving work of comparable level;

(C) to plan and direct or to plan and execute specialized programs of marked difficulty, responsibility, and national significance, along professional, scientific, technical, administrative, fiscal, or other lines, requiring extended training and experience which has demonstrated leadership and unusual attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or

(D) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(16) Grade GS-16 includes those classes of positions the duties of which are—

(A) to perform, under general administrative direction, with unusual latitude for the exercise of independent judgment, work of outstanding difficulty and responsibility along special technical, supervisory, or administrative lines which has demonstrated leadership and exceptional attainments;

(B) to serve as head of a major organization within a bureau involving work of comparable level;

(C) to plan and direct or to plan and execute professional, scientific, technical, administrative, fiscal, and other specialized programs of unusual difficulty, responsibility, and national significance, requiring extended training and experience which has demonstrated leadership and exceptional attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or

(D) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(17) Grade GS-17 includes those classes of positions the duties of which are—

(A) to serve as the head of a bureau where the position, considering the kind and extent of the authorities and responsibilities vested in it, and the scope, complexity, and degree of difficulty of the activities carried on, is of a high order among the whole group of positions of heads of bureaus;

(B) to plan and direct or to plan and execute professional, scientific, technical, administrative, fiscal, or other specialized programs of exceptional difficulty, responsibility, and national significance, requiring extended training and experience which demonstrated exceptional leadership and attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or

(C) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(18) Grade GS-18 includes those classes of positions the duties of which are—

(A) to serve as the head of a bureau where the position, considering the kind and extent of the authorities and responsibil-

ities vested in it, and the scope, complexity, and degree of difficulty of the activities carried on, is exceptional and outstanding among the whole group of positions of heads of bureaus;

(B) to plan and direct or to plan and execute frontier or unprecedented professional, scientific, technical, administrative, fiscal, or other specialized programs of outstanding difficulty, responsibility, and national significance, requiring extended training and experience which has demonstrated outstanding leadership and attainments in professional, scientific, or technical research, practice, or administration, or in administrative, fiscal, or other specialized activities; or

(C) to perform consulting or other professional, scientific, technical, administrative, fiscal, or other specialized work of equal importance, difficulty, and responsibility, and requiring comparable qualifications.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 446.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1111	Oct. 28, 1949, ch. 782, § 601 63 Stat. 959. Sept. 1, 1954, ch. 1208, § 107, 68 Stat. 1108.
....	5 U.S.C. 1112	Oct. 28, 1949, ch. 782, § 602, 63 Stat. 959. Sept. 1, 1954, ch. 1208, § 108, 68 Stat. 1108. June 20, 1958, Pub. L. 85-462, § 13(a), 72 Stat. 214.

Former sections 1111 and 1112 are combined and restated.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The General Schedule, referred to in text, is set out under section 5332 of this title.

JOB EVALUATION POLICY ACT OF 1970

Pub. L. 91-216, May 17, 1970, 84 Stat. 72, provided: "That this Act may be cited as the 'Job Evaluation Policy Act of 1970'.

"TITLE I—CONGRESSIONAL FINDINGS WITH RESPECT TO JOB EVALUATION AND RANKING IN THE EXECUTIVE BRANCH

"SEC. 101. The Congress hereby finds that—

"(1) the tremendous growth required in the activities of the Federal Government in order to meet the country's needs during the past several decades has led to the need for employees in an ever-increasing and changing variety of occupations and professions, many of which did not exist when the basic principles of job evaluation and ranking were established by the Classification Act of 1923 [Act Mar. 4, 1923, ch. 265, 42 Stat. 1488]. The diverse and constantly changing nature of these occupations and professions requires that the Federal Government reassess its approach to job evaluation and ranking better to fulfill its role as an employer and assure efficient economical administration;

"(2) the large number and variety of job evaluation and ranking systems in the executive branch have resulted in significant inequities in selection, promotion, and pay of employees in comparable positions among these systems;

"(3) little effort has been made by Congress or the executive branch to consolidate or coordinate the various job evaluation and ranking systems, and there has been no progress toward the establishment of a coordinated system in which job evaluation and ranking, regardless of the methods used, is related to a unified set of principles providing coherence and equity throughout the executive branch;

"(4) within the executive branch, there has been no significant study of, or experimentation with the several recognized methods of job evaluation and ranking to determine which of those methods are most appropriate for use and application to meet the present and future needs of the Federal Government; and

"(5) notwithstanding the recommendations resulting from the various studies conducted during the last twenty years, the Federal Government has not taken the initiative to implement those recommendations with respect to the job evaluation and ranking systems within the executive branch, with the result that such systems have not, in many cases, been adapted or administered to meet the rapidly changing needs of the Federal Government.

"TITLE II—STATEMENT OF POLICY

"SEC. 201. It is the sense of Congress that—

"(1) the executive branch shall, in the interest of equity, efficiency, and good administration, operate under a coordinated job evaluation and ranking system for all civilian positions, to the greatest extent practicable;

"(2) the system shall be designed so as to utilize such methods of job evaluation and ranking as are appropriate for use in the executive branch, taking into account the various occupational categories of positions therein; and

"(3) the United States Civil Service Commission shall be authorized to exercise general supervision and control over such a system.

"TITLE III—PREPARATION OF A JOB EVALUATION AND RANKING PLAN BY THE CIVIL SERVICE COMMISSION AND REPORTS AND RECOMMENDATIONS TO CONGRESS

"SEC. 301. The Civil Service Commission, through such organizational unit which it shall establish within the Commission and which shall report directly to the Commission, shall prepare a comprehensive plan for the establishment of a coordinated system of job evaluation and ranking for civilian positions, in the executive branch. The plan shall include, among other things—

"(1) provision for the establishment of a method or methods for evaluating jobs and alining them by level;

"(2) a time schedule for the conversion of existing job evaluation and ranking systems into the coordinated system;

"(3) provision that the Civil Service Commission shall have general supervision of and control over the coordinated job evaluation and ranking system, including, if the Commission deems it appropriate, the authority to approve or disapprove the adoption, use and administration in the executive branch of the method or methods established under that system;

"(4) provision for the establishment of procedures for the periodic review by the Civil Service Commission of the effectiveness of the method or methods adopted for use under the system; and

"(5) provision for maintenance of the system to meet the changing needs of the executive branch in the future.

"SEC. 302. In carrying out its functions under section 301 of this Act, the Commission shall consider all recognized methods of job evaluation and ranking.

"SEC. 303. The Civil Service Commission is authorized to secure directly from any executive agency, as defined by section 105 of title 5, United States Code, or any bureau, office, or part thereof, information, suggestions, estimates, statistics, and technical assistance for the purposes of this Act; and each such executive agency or bureau, office, or part thereof is authorized and directed to furnish such information, suggestions, estimates, statistics, and technical assistance directly to the Civil Service Commission upon request by the Commission.

"Sec. 304. (a) Within one year after the date of enactment of this Act, the Commission shall submit to the President and the Congress an interim progress report on the current status and results of its activities under this Act, together with its current findings.

"(b) Within two years after the date of enactment of this Act [Mar. 17, 1970]—

"(1) the Civil Service Commission shall complete its functions under this Act and shall transmit to the President a comprehensive report of the result of its activities, together with its recommendations (including its draft of proposed legislation to carry out such recommendations), and

"(2) the President shall transmit that report (including the recommendations and draft of proposed legislation of the Commission) to the Congress, together with such recommendations as the President deems appropriate.

"(c) The Commission shall submit to the Committees on Post Office and Civil Service of the Senate and House of Representatives once each calendar month, or at such other intervals as may be directed by those committees, or either of them, an interim progress report on the then current status and results of the activities of the Commission under this Act, together with the then current findings of the Commission.

"(d) The Commission shall periodically consult with, and solicit the views of, appropriate employee and professional organizations.

"(e) The organizational unit established under section 301 of this Act shall cease to exist upon the submission of the report to the Congress under subsection (b) of this section."

Cross References

Coast Guard civilian instructors, see section 186 of Title 14, Coast Guard.

Section Referred to in Other Sections

This section is referred to in title 10 sections 1586, 4540, 7212, 9540.

The source of this section is referred to in title 14 section 186.

§ 5105. Standards for classification of positions

(a) The Civil Service Commission, after consulting the agencies, shall prepare standards for placing positions in their proper classes and grades. The Commission may make such inquiries or investigations of the duties, responsibilities, and qualification requirements of positions as it considers necessary for this purpose. The agencies, on request of the Commission, shall furnish information for and cooperate in the preparation of the standards. In the standards, which shall be published in such form as the Commission may determine, the Commission shall—

(1) define the various classes of positions in terms of duties, responsibilities, and qualification requirements;

(2) establish the official class titles; and

(3) set forth the grades in which the classes have been placed by the Commission.

(b) The Commission, after consulting the agencies to the extent considered necessary, shall revise, supplement, or abolish existing standards, or prepare new standards, so that, as nearly as may be practicable, positions existing at any given time will be covered by current published standards.

(c) The official class titles established under subsection (a)(2) of this section shall be used for personnel, budget, and fiscal purposes. However, this requirement does not prevent the use of organizational or other titles for internal administration, public convenience, law enforcement, or similar purposes.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 452.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1094	Oct. 28, 1949, ch. 782, § 401, 63 Stat. 957.

The section is restated for clarity.

In subsection (b), the requirement that the Commission keep the standards up to date is omitted as included in the requirement that the Commission revise, supplement, or abolish existing standards, or prepare new standards so as to keep them current as nearly as practicable.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 5101 of this title and in title 10 sections 4540, 7212, 9540.

§ 5106. Basis for classifying positions

(a) Each position shall be placed in its appropriate class. The basis for determining the appropriate class is the duties and responsibilities of the position and the qualifications required by the duties and responsibilities.

(b) Each class shall be placed in its appropriate grade. The basis for determining the appropriate grade is the level of difficulty, responsibility, and qualification requirements of the work of the class.

(c) Appropriated funds may not be used to pay an employee who places a supervisory position in a class and grade solely on the basis of the size of the organization unit or the number of subordinates supervised. These factors may be given effect only to the extent warranted by the work load of the organization unit and then only in combination with other factors, such as the kind, difficulty, and complexity of work supervised, the degree and scope of responsibility delegated to the supervisor, and the kind, degree, and character of the supervision exercised.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 453.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 1092	Oct. 28, 1949, ch. 782, § 302, 63 Stat. 957.
(c)	5 U.S.C. 1093	Oct. 28, 1949, ch. 782, § 303, 63 Stat. 957.

In subsection (c), the prohibition is restated in positive form. The words "to pay" are substituted for the words "to pay the compensation of". The words "the group, section, bureau" are omitted as included in the words "the organization unit". The word "actually" in the phrase "of the supervision exercised" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in title 10 sections 4540, 7212, 9540.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 31-1522 of the District of Columbia Code.

§ 5107. Classification of positions

Except as otherwise provided by this chapter, each agency shall place each position under its jurisdiction in its appropriate class and grade in conformance with standards published by the Civil Service Commission or, if no published standards apply directly, consistently with published standards. When facts warrant, an agency may change a position which it has placed in a class or grade under this section from that class or grade to another class or grade. Subject to section 5337 of this title, these actions of an agency are the basis for pay and personnel transactions until changed by certificate of the Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 453.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1102(a).	Oct. 28, 1949, ch. 782, § 502(a), 63 Stat. 958.

The words "to which this chapter applies" are omitted as unnecessary in view of section 5102. The words "Subject to section 5337 of this title" are added to reflect the qualification imposed by that section.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5111, 5112 of this title and in title 10 sections 4540, 7212, 9540.

§ 5108. Classification of positions at GS-16, 17, and 18

(a) A majority of the Civil Service Commissioners may establish, and from time to time revise, the maximum number of positions (not to exceed an aggregate of 2,754, in addition to any professional engineering positions primarily concerned with research and development and professional positions in the physical and natural sciences and medicine which may be placed in these grades, and in addition to 240 hearing examiner positions under section 3105 of this title which may be placed in GS-16 and 9 such positions which may be placed in GS-17) which may be placed in GS-16, 17, and 18 at any one time. However, under this authority, not to exceed 25 percent of the aggregate number may be placed in GS-17 and not to exceed 12 percent of the aggregate number may be placed in GS-18. A position may be placed in GS-16, 17, or 18 only by action of, or after prior approval, by a majority of the Civil Service Commissioners.

(b)(1) The number of positions of senior specialists in the Legislative Reference Service, Library of Congress, placed in GS-16, 17, and 18 under the proviso in section 166(b)(1) of title 2 are in addition to the number of positions authorized by subsection (a) of this section.

(2) In addition to the number of positions authorized by subsection (a) of this section and positions referred to in paragraph (1) of this subsection, the Librarian of Congress, subject to the procedures prescribed by this section, may place a total of 44 positions in the Library of Congress in GS-16, 17, and 18.

(c) In addition to the number of positions authorized by subsection (a) of this section—

(1) the Comptroller General of the United States, subject to the procedures prescribed by this section, may place a total of 90 positions in the General Accounting Office in GS-16, 17, and 18;

(2) the Director of the Federal Bureau of Investigation, without regard to any other provision of this section, may place a total of 140 positions in the Federal Bureau of Investigation in GS-16, 17, and 18;

(3) the Director of the Administrative Office of the United States Courts may place a total of 4 positions in GS-17;

(4) the Commissioner of Immigration and Naturalization may place a total of 11 positions in GS-17;

(5) the Secretary of Defense, subject to the standards and procedures prescribed by this chapter, may place a total of 407 positions (in addition to any professional engineering positions primarily concerned with research and development and professional positions in the physical and natural sciences and medicine which may be placed in these grades) in the Department of Defense in GS-16, 17, and 18;

(6) the Administrator of the National Aeronautics and Space Administration, subject to the standards and procedures prescribed by this chapter, may place a total of 5 positions in the National Aeronautics and Space Administration in GS-16, 17, and 18;

(7) the Attorney General, without regard to any other provision of this section, may place a total of ten positions of warden in the Bureau of Prisons in GS-16;

(8) the Attorney General, without regard to any other provision of this section, may place a total of 32 positions in GS-16, 17, and 18:

(9) the Railroad Retirement Board may place 4 positions in GS-16, 4 in GS-17, and 1 in GS-18, for the purpose of its administration of chapter 9 or 11 of title 45, or both;

(10)(A) the Secretary of Labor, subject to the standards and procedures prescribed by this chapter, may place an additional twenty-five positions in the Department of Labor in GS-16, 17, and 18 for the purposes of carrying out his responsibilities under the Occupational Safety and Health Act of 1970;

(B) the Occupational Safety and Health Review Commission, subject to the standards and procedures prescribed by this chapter, may place ten positions in GS-16, 17, and 18 in carrying out its functions under the Occupational Safety and Health Act of 1970;

(11) the Law Enforcement Assistance Administration may place a total of twenty-five positions in GS-16, 17, and 18;

(12) the Chief Judge of the United States Tax Court, without regard to this chapter (except section 5114), may place a total of 5 positions in GS-16, 17, and 18;

(13) The Commodity Futures Trading Commission, subject to the standards and procedures prescribed by this chapter, may place an additional twenty positions in GS-16, GS-17, and GS-18 for purposes of carrying out its functions;

(14) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place one additional position in the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration in GS-16, GS-17, or GS-18;

(15) the Chairman of the Equal Employment Opportunity Commission, subject to the standards and procedures prescribed by this chapter, may place an additional ten positions in the Equal Employment Opportunity Commission in GS-16, GS-17, and GS-18 for the purposes of carrying out title VII of the Civil Rights Act of 1964; and

(16) the Secretary of Health, Education, and Welfare, subject to the standards and procedures prescribed by this chapter, may place a total of eleven positions in the National Institute on Alcohol Abuse and Alcoholism in GS-16, 17, and 18.

(d) When a general appropriation statute authorizes an agency to place additional positions in GS-16, 17, and 18, the total number of positions authorized to be placed in these grades by this section (except subsection (c)(8) and (9)) is reduced by the number of positions authorized by the appropriation statute, unless otherwise specifically provided. The reduction is made in the following order—

first, from any number specifically authorized for the agency by this section (except subsection (c)(8) and (9)); and

second, from the maximum number of positions authorized by subsection (a) of this section irrespective of the agency to which the positions are allocated.

(e) In addition to the number of positions authorized by subsection (a), the Commissioner of Internal Revenue is authorized, without regard to any other provision of this section, to place a total of 20 positions in the Internal Revenue Service in GS-16 and 17.

(f) In addition to the number of positions authorized by subsection (a), the Secretary of Labor is authorized, without regard to any other provision of this section, to place 1 position in the Department of Labor in grade GS-18, and a total of 20 positions in the Department of Labor in grades GS-16 and 17.

(g) In addition to the number of positions authorized by subsection (a), the Pension Benefit Guaranty Corporation is authorized, without regard to any other provision of this section, to place one position in the corporation at GS-18 and a total of 10 positions in the corporation at GS-16 and 17.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 453; Pub. L. 89-632, § 1(a)-(d), Oct. 8, 1966, 80 Stat. 878; Pub. L. 90-83, § 1(12), Sept. 11, 1967, 81 Stat. 197; Pub. L. 91-187, § 1, Dec. 30, 1969, 83 Stat. 850; Pub. L. 91-206, § 5(a), Mar. 10, 1970, 84 Stat. 51; Pub. L. 91-596, § 30, Dec. 29, 1970, 84 Stat. 1619; Pub. L. 91-644, title I, § 11, Jan. 2, 1971, 84 Stat. 1889; Pub. L. 91-656, § 9, Jan. 8, 1971, 84 Stat. 1955; Pub. L. 91-261, § 12, Mar. 24, 1972, 86 Stat. 112; Pub. L. 90-351, title I, § 506(c), as added Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93-282, title III, § 301, May 14, 1974, 88 Stat. 137; Pub. L. 93-406, title I, § 507(b), title II, § 1051(b)(2), title IV, § 4002(c), Sept. 2, 1974, 88 Stat. 894, 951, 1005; Pub. L. 93-415, title II, § 201(g), Sept. 7, 1974, 88 Stat. 1113; Pub. L. 93-463, title IV, § 410, Oct. 23, 1974, 88 Stat. 1414; Pub. L. 93-516, title II, § 208(b), Dec. 7, 1974, 88 Stat. 1629; Pub. L. 93-651, title II, § 208(b), Nov. 21, 1974, 89 Stat. 2-14; Pub. L. 94-183, § 2(14), (15), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 94-233, § 13, Mar. 15, 1976, 90 Stat. 233; Pub. L. 94-503, title II, § 202(a), Oct. 15, 1976, 90 Stat. 2426.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b), (c) (1)-(7), (d).	5 U.S.C. 1105 (a)-(h), (j)-(*l*).	Oct. 28, 1949, ch. 782, § 505, 63 Stat. 959. Sept. 1, 1954, ch. 1208, § 101(a), 68 Stat. 1105. June 28, 1955, ch. 189, § 12(a), 69 Stat. 179. July 31, 1956, ch. 804, § 502, 70 Stat. 762. Aug. 14, 1957, Pub. L. 85-136, 71 Stat. 352. June 20, 1958, Pub. L. 85-462, §§ 10 (less "(i)"), 11, 72 Stat. 213, 213A. Sept. 23, 1959, Pub. L. 86-370, § 2(a), (b), 73 Stat. 650. Sept. 23, 1959, Pub. L. 86-377, § 1(a), 73 Stat. 700. July 1, 1960, Pub. L. 86-568, § 203, 74 Stat. 305. Sept. 26, 1961, Pub. L. 87-322, § 1, 75 Stat. 685. Oct. 4, 1961, Pub. L. 87-367, §§ 102(a), (b), 103(1), 75 Stat. 786, 787. Oct. 11, 1962, Pub. L. 87-793, § 606, 76 Stat. 848. Aug. 14, 1964, Pub. L. 88-426, § 103(b), 78 Stat. 402.
(c)(8)	5 U.S.C. 298a	July 7, 1955, ch. 279, § 201 (2d proviso on p. 273), 69 Stat. 273. Oct. 11, 1962, Pub. L. 87-793, § 607(b), 76 Stat. 850.
(c)(9)	45 U.S.C. 228j (b)(4) (4th sentence).	Sept. 6, 1958, Pub. L. 85-927, § 3, 72 Stat. 1781.

The section is reorganized for clarity.

In subsection (a)(2), the date "October 4, 1961" is substituted for "the date of enactment of this subparagraph".

Subsection (c)(6) is added on authority of section 302 of the Act of July 29, 1958, Pub. L. 85-568, 72 Stat. 433, 42 U.S.C. 2453, and Transfer Plan, effective March 15, 1960, 25 F.R. 2151, section 2(c) of which in effect transferred from the Department of Defense to the National Aeronautics and Space Administration 5 of the 372 positions authorized to be placed in GS-16, 17, and 18 pursuant to section 1(a) of the Act of Sept. 23, 1959, Pub. L. 86-377, 73 Stat. 700.

In subsection (c)(8), the words "on and after July 7, 1955" are omitted as obsolete.

In subsection (d), the words "subsequent to February 1, 1958" are omitted as obsolete and the words "of the Government" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

The amendment to 5 U.S.C. 5108(c)(5) corrects a typographical error and conforms to the source law (act of October 11, 1962, Public Law 87-793, section 606(b), 76 Stat. 849; former 5 U.S.C. 1105(j)).

References in Text

The Occupational Safety and Health Act of 1970, referred to in subsec. (c)(10), is classified to section 651 et seq. of Title 29, Labor.

Title VII of the Civil Rights Act of 1964, referred to in subsec. (c)(15), is classified to subchapter VI of chapter 21 (§ 2001e et seq.) of Title 42, The Public Health and Welfare.

Codification

The content of Pub. L. 93-516, including provisions of section 208(b) thereof which added par. (12) relating to the Secretary of Health, Education, and Welfare, were originally contained in H.R. 14225, 93rd Congress, Second Session, which was pocket-vetoed during the 31-day intrasession adjournment of the 93rd Congress for the Congressional elections in November, 1974. See 1974 Amendment note under this section.

Pursuant to an order of the United States District Court for the District of Columbia (Kennedy v. Jones, D.C.D.C. 1976, 412 F.Supp. 353) H.R. 14225 was deemed to have become law without the approval of the President on Nov. 21, 1974, and was given the designation Pub. L. 93-651. Therefore, for purposes of codification, this section should be deemed to have been amended by Pub. L. 93-651, title II, § 208(b), Nov. 21, 1974, 89 Stat. 2-14, in exactly the same manner as it was amended by Pub. L. 93-516.

Amendments

1976—Subsec. (c)(7). Pub. L. 94-233 restructured provisions and, as restructured, deleted authority relating to 8 positions of Member of the Board of Parole in GS-17.

Subsec. (c)(8). Pub. L. 94-503 substituted provision that the Attorney General, without regard to any other provision of this section, may place a total of 32 positions in GS-16, 17, and 18 for provision that the Attorney General, without regard to this chapter (except section 5114), may place 1 position in GS-16.

1975—Subsec. (c)(11). Pub. L. 94-183, § 2(14), increased to twenty-five the number of positions which the Law Enforcement Assistance Administration may place in GS-16, 17, and 18. The increase required no change in text in view of the 1974 amendment by Pub. L. 93-415, which called for an identical increase.

Subsec. (c)(13)-(16). Pub. L. 94-183, § 2(15), redesignated par. (12), relating to the Commodity Futures Trading Commission, par. (12), relating to the Secretary of Health, Education, and Welfare and the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration, par. (13), relating to the Chairman of the Equal Employment Opportunity Commission, and par. (14), relating to the Secretary of Health, Education, and Welfare and the National Institute on Alcohol Abuse and Alcoholism, as pars. (13)-(16), respectively.

1974—Subsec. (c)(11). Pub. L. 93-415 increased from twenty-two to twenty-five the number of positions which the Law Enforcement Assistance Administration may place in GS-16, 17, and 18. Amendment has been executed to subsec. (c)(11) as the probable intent of Congress notwithstanding direction in section 210 (g) of Pub. L. 93-415 that the amendment be executed to subsec. (c) (10).

Subsec. (c)(11) to (14). Pub. L. 93-282 redesignated as par. (11) former par. (10) relating to Law Enforcement Assistance Administration; par. (12) former par. (10) relating to Chief Judge of the United States Tax Court; par. (13) former par. (11) relating to Chairman of the Equal Employment Opportunity Commission; and added par. (14) relating to GS-16, 17, and 18 positions in the National Institute on Alcohol Abuse and Alcoholism.

Subsec. (c)(12). Pub. L. 93-516 added par. (12), relating to Secretary of Health, Education, and Welfare and the Office for the Blind and Visually Handicapped of the Rehabilitation Services Administration.

An identical amendment was made by Pub. L. 93-651. See Codification note hereinabove.

Subsec. (c)(12). Pub. L. 93-463 added par. (12), relating to the Commodity Futures Trading Commission.

Subsec. (e). Pub. L. 93-406, § 1051(b)(2), added subsec. (e).

Subsec. (f). Pub. L. 93-406, § 507(b), added subsec. (f).

Subsec. (g). Pub. L. 93-406, § 4002(c), added subsec. (g).

1973—Subsec. (c)(10). Pub. L. 93-83 substituted in par. (10) as added by Pub. L. 91-644 "twenty-two" for "twenty".

1972—Subsec. (c). Pub. L. 92-261 added par. (11).

1971—Subsec. (a). Pub. L. 91-656, § 9(b), substituted "2,754" for "2,734".

Subsec. (c)(10). Pub. L. 91-656, § 9(a), added par. (10), relating to the Chief Judge of the United States Tax Court.

Subsec. (c)(10). Pub. L. 91-644 added par. (10), relating to Law Enforcement Assistance Administration.

1970—Subsec. (a). Pub. L. 91-206 substituted "2,734" for "2,727".

Subsec. (c)(10). Pub. L. 91-596 added par. (10), relating to positions in the Department of Labor.

1969—Subsec. (a). Pub. L. 91-187, § 1(a), increased the number of positions authorized to be established from 2,577 to 2,727.

Subsec. (b)(2). Pub. L. 91-187, § 1(b), increased the authorized number of positions in the Library of Congress that could be placed in pay grades GS-16, 17, and 18 from 28 to 44.

Subsec. (c)(1). Pub. L. 91-187, § 1(c), increased the authorized number of positions in the General Accounting Office that could be placed in pay grades GS-16, 17, and 18 from 64 to 90.

Subsec. (c)(2). Pub. L. 91-187, § 1(d), increased the authorized number of positions in the Federal Bureau of Investigation that could be placed in pay grades GS-16, 17, and 18 from 110 to 140.

1966—Subsec. (a). Pub. L. 89-632, § 1(a), increased the number of positions authorized to be established from 2,400 to 2,577, eliminated clause (1) designation preceding the provision limiting number of positions to be placed in GS-17 and GS-18, and eliminated clauses (2) to (5), which made positions available only for allocation as follows: 50, with Presidential approval, for an agency or function created after Oct. 4, 1961, 14 to the United States Arms Control and Disarmament Agency, 6 to the Immigration and Naturalization Service, and 4 to the Federal Home Loan Bank Board, respectively.

Subsec. (b). Pub. L. 89-632, § 1(b), designated existing provisions as par. (1) and added par. (2).

Subsec. (c)(1). Public L. 89-632, § 1(c), increased the number of positions in the GAO from 39 to 64.

Subsec. (c)(2). Pub. L. 89-632, § 1(d), increased the number of positions in the FBI from 75 to 110.

Effective Date of 1976 Amendment.

Amendment by Pub. L. 94-233 effective on the sixtieth day following Mar. 15, 1976, see section 16(b) of Pub. L. 94-233, set out as a note under section 4201 of Title 18, Crimes and Criminal Procedure.

Effective Date of 1974 Amendments

Amendment by Pub. L. 93-463 effective Oct. 23, 1974, see section 418 of Pub. L. 93-463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93-415 effective Sept. 7, 1974, see section 263(a) of Pub. L. 93-415, set out as a note under section 5601 of Title 42, The Public Health and Welfare.

Subsec. (g) of this section effective on Sept. 2, 1974, with exceptions specified in section 1381(b), (c) of Title 29, Labor, see section 1381 of Title 29.

Amendment by Pub. L. 93-406 effective on the 90th day after Sept. 2, 1974, see section 1051(d) of Pub. L.

93-406, set out as a note under section 7802 of Title 26, Internal Revenue Code.

Effective Date of 1973 Amendment

Offices and salaries modified under amendment of this section by Pub. L. 93-83 prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93-83, set out as a note under section 3701 of Title 42, The Public Health and Welfare.

Effective Date of 1967 Amendment

Amendment by Pub. L. 90-83 effective as of Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

Preference to Blind in Selection of Personnel

Preference to be given to blind individuals in selection of additional personnel under subsec. (c)(12) of this section, see section 208(c) of Pub. L. 93-516, set out as a note under section 702 of Title 29, Labor.

Cross References

Approval by Civil Service Commission not required for appointments to Federal Bureau of Investigation under subsec. (c) (2) of this section, see section 3324 of this title.

Chairman of Consumer Product Safety Commission authorized to place twelve positions in GS-16, GS-17, and GS-18, see section 2053 of Title 15, Commerce and Trade.

Section Referred to in Other Sections

This section is referred to in sections 3324, 5109, 5114 of this title; title 2 section 166; title 10 sections 4540, 7212, 9540; title 15 section 2053; title 20 sections 1221e, 1221f; title 21 section 1115; title 22 sections 2193, 2385, 2454; title 29 sections 661, 1137; title 42 section 3774.

§ 5109. Positions classified by statute

(a) The position held by an employee of the Department of Agriculture while he, under section 450d of title 7, is designated and vested with a delegated regulatory function or part thereof shall be classified in accordance with this chapter, but not lower than GS-14.

(b) The position held by the employee appointed under section 1104(a)(2) of this title to have such functions and duties with respect to retirement, life insurance, and health benefits programs as the Civil Service Commission may prescribe is classified at GS-18, and is in addition to the number of positions authorized by section 5108(a) of this title.

(c) The position held by the employee appointed under section 7802(b) of the Internal Revenue Code of 1954 is classified at GS-18, and is in addition to the number of positions authorized by section 5108(a) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 455; Pub. L. 91-34, § 2(b), June 30, 1969, 83 Stat. 41; Pub. L. 93-406, title II, § 1051(b)(1), Sept. 2, 1974, 88 Stat. 951.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 516b (3d sentence).	Apr. 4, 1940, ch. 75, § 2 (3d sentence), 54 Stat. 81.
(b)	5 U.S.C. 3013 (a) (10th through 24th words of 1st sentence, and 2d sentence).	Sept. 28, 1959, Pub. L. 86-382, § 14(a) (10th through 24th words of 1st sentence, and 2d sentence), 73 Stat. 716.
(c)	40 U.S.C. 193w	Sept. 23, 1959, Pub. L. 86-379, § 1, 73 Stat. 702.

In subsection (a), the words "section 450d of title 7" are substituted for "this section" to reflect the scheduled transfer of former section 516b to title 7.

In subsection (c), the words "Notwithstanding any other law" were omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1974—Subsec. (c). Pub. L. 93-406 added subsec. (c). A prior subsec. (c) was repealed by Pub. L. 91-34.

1969—Subsec. (c). Pub. L. 91-34 repealed subsec. (c) provisions classifying positions on National Zoological Park police force authorized pursuant to section 193n of Title 40.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-406 effective on the 90th day after Sept. 2, 1974, see section 1051(d) of Pub. L. 93-406, set out as a note under section 7802 of Title 26, Internal Revenue Code.

Effective Date of 1969 Amendment

Amendment by Pub. L. 91-34 effective at the beginning of the first pay period which commences on or after June 30, 1969, see section 3(a) of Pub. L. 91-34, set out as a note under section 5365 of this title.

Reduction of Basic Pay Rate

Rate of basic pay not to be reduced by reason of the enactment of Pub. L. 91-34, which amended this section, see section 3(b) of Pub. L. 91-34, set out as a note under section 5365 of this title.

Section Referred to in Other Sections

This section is referred to in sections 5114, 5115 of this title; title 10 sections 4540, 7212, 9540.

§ 5110. Review of classification of positions

(a) The Civil Service Commission, from time to time, shall review such number of positions in each agency as will enable the Commission to determine whether the agency is placing positions in classes and grades in conformance with or consistently with published standards.

(b) When the Commission finds under subsection (a) of this section that a position is not placed in its proper class and grade in conformance with published standards or that a position for which there is no published standard is not placed in the class and grade consistently with published standards, it shall, after consultation with appropriate officials of the agency concerned, place the position in its appropriate class and grade and shall certify this action to the agency. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 455.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 1102(b).	Oct. 28, 1949, ch. 782, § 502(b), 63 Stat. 958.
(b)	5 U.S.C. 1103	Oct. 28, 1949, ch. 782, § 503, 63 Stat. 958.

In subsection (b), the words "to which this chapter applies" are omitted as unnecessary in view of section 5102. The words "appropriate officials" and "administrative, certifying, payroll, disbursing, and accounting officials" are substituted for "appropriate officers and employees" and "administrative, certifying, payroll, disbursing, and accounting officers", respectively, to preserve the application to members of the uniformed services who are excluded from the definition of "officer" and "employee".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540.

§ 5111. Revocation and restoration of authority to classify positions

(a) When the Civil Service Commission finds that an agency is not placing positions in classes and grades in conformance with or consistently with published standards, it may revoke or suspend the authority granted to the agency by section 5107 of this title and require that prior approval of the Commission be secured before an action placing a position in a class and grade becomes effective for payroll and other personnel purposes. The Commission may limit the revocation or suspension to—

(1) the departmental or field service, or any part thereof;

(2) a geographic area;

(3) an organization unit or group of organization units;

(4) certain types of classification actions;

(5) classes in particular occupational groups or grades; or

(6) classes for which standards have not been published.

(b) After revocation or suspension, the Commission may restore the authority to the extent that it is satisfied that later actions placing positions in classes and grades will be in conformance with or consistent with published standards.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 455.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1104	Oct. 28, 1949, ch. 782, § 504, 63 Stat. 959.

In subsection (a), the words "in whole or in part" are omitted as unnecessary in view of the specific authority to limit the revocation or suspension. The words "The Commission may limit the revocation or suspension to" are substituted for "Such revocations or suspensions may be limited, in the discretion of the Commission, to" to eliminate redundancy.

In subsection (b), the words "After revocation or suspension" are substituted for "After all or part of the authority of the department has been revoked or suspended". The words "may restore" are substituted for "may at any time restore" to eliminate redundancy.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540.

§ 5112. General authority of the Civil Service Commission

(a) Notwithstanding section 5107 of this title, the Civil Service Commission may—

(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of a position;

(2) place in an appropriate class and grade a newly created position or a position coming initially under this chapter;

(3) decide whether a position is in its appropriate class and grade; and

(4) change a position from one class or grade to another class or grade when the facts warrant.

The Commission shall certify to the agency concerned its action under paragraph (2) or (4) of this subsection. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(b) An employee affected or an agency may request at any time that the Commission exercise the authority granted to it by subsection (a) of this section and the Commission shall act on the request.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 456.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1101	Oct. 28, 1949, ch. 782, § 501, 63 Stat. 958.

In subsection (a), the words "which may be exercised at any time in its discretion" are omitted as redundant. The words "is binding on all administrative, certifying, payroll, disbursing, and accounting officials" are substituted for "shall be binding on all administrative, certifying, payroll, disbursing, and accounting officers of the Government" to preserve the application to members of the uniformed services.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540.

§ 5113. Classification records

The Civil Service Commission may—

(1) prescribe the form in which each agency shall record the duties and responsibilities of positions and the places where these records shall be maintained;

(2) examine these or other pertinent records of the agency; and

(3) interview employees of the agency who have knowledge of the duties and responsibilities of positions and information as to the reasons for placing a position in a class or grade.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 456.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1106	Oct. 28, 1949, ch. 782, § 506, 63 Stat. 959.

In paragraph (1), the words "to which this chapter applies" are omitted as unnecessary in view of section 5102.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540.

§ 5114. Reports; positions in GS-16, 17, and 18

(a) The Civil Service Commission, with respect to positions under section 5108(a) of this title, the head of the agency concerned, with respect to positions under sections 5108(b), (c) and 5109(b) of this title, and the appropriate authority, with respect to positions under jurisdiction of the authority which are allocated to or placed in GS-16, 17, and 18, including positions so allocated or placed on a temporary or present incumbency basis, under reorganization plan or statute, except sections 5108 and 5109 of this title, shall submit, so long as the reorganization plan or statute remains in effect, to Congress, not later than February 1 of each year, a report setting forth—

(1) the total number of positions allocated to or placed in all these grades during the immediately preceding calendar year, the total number of positions allocated to or placed in each of these grades during the immediately preceding calendar year, and the total number of these positions in existence during the immediately preceding calendar year and the grades to or in which the total number of positions in existence are allocated or placed;

(2) the name, rate of pay, and description of the qualifications of the incumbent of each of these positions, together with the position title and a statement of the duties and responsibilities performed by the incumbent;

(3) the position or positions in or outside the Government of the United States held by each of these incumbents, and his rate or rates of pay, during the 5-year period immediately preceding the date of his appointment to the position; and

(4) such other information as the Commission, the head of the agency, or other appropriate authority submitting the report may consider appropriate or as may be required by Congress or a committee thereof.

This subsection does not require the resubmission of information required by paragraphs (2) and (3) of this subsection which has been reported under this subsection and which remains unchanged.

(b) When the Commission, the head of the agency, or other appropriate authority considers full public disclosure of any or all of the items specified by subsection (a) of this section to be detrimental to the national security, the Commission, the head of the agency, or authority may—

(1) omit from the annual report those items with respect to which full public disclosure is found to be detrimental to the national security;

(2) inform Congress of the omission; and

(3) at the request of the Congressional committee to which the report is referred, present all information concerning those items.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 456.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1105a	July 31, 1956, ch. 804, § 503, 70 Stat. 762.

In subsection (a), the words "The Civil Service Commission, with respect to positions under section 5108(a) of this title, the head of the agency concerned, with respect to positions under sections 5108(b), (c) and 5109(b) of this title" are substituted for "The United States Civil Service Commission, the Librarian of Congress, the Comptroller General of the United States, and the Director of the Federal Bureau of Investigation of the Department of Justice, respectively, with respect to those positions within the purview of subsections (b), (c), (d), and (e), respectively, of section 1105 of this title" to reflect the provisions of existing law which are carried into sections 5108 and 5109. The words "which is in effect on or after July 31, 1956" are omitted as obsolete.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5108, 5115 of this title; title 10 sections 4540, 7212, 9540.

§ 5115. Regulations

The Civil Service Commission may prescribe regulations necessary for the administration of this chapter, except sections 5109 and 5114.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 457.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1072	Oct. 28, 1949, ch. 782, § 1101, 63 Stat. 971.
....	5 U.S.C. 1072a	Sept. 1, 1954, ch. 1208, § 113, 68 Stat. 1108.

Former sections 1072 and 1072a are combined and restated for clarity. The remainder of the authority is carried into sections 3324, 5338, and 7154.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540.

CHAPTER 53—PAY RATES AND SYSTEMS

SUBCHAPTER I—PAY COMPARABILITY SYSTEM

Sec.
5301. Policy.
[5302. Repealed.]
5303. Higher minimum rates; Presidential authority.
5304. Presidential policies and regulations.
5305. Annual pay reports and adjustments.
5306. Advisory Committee on Federal Pay.
5307. Pay fixed by administrative action.
5308. Pay limitation.

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

5311. The Executive Schedule.
5312. Positions at level I.
5313. Positions at level II.
5314. Positions at level III.
5315. Positions at level IV.
5316. Positions at level V.
5317. Presidential authority to place positions at levels IV and V.
5318. Adjustments in rates of pay.

SUBCHAPTER III—GENERAL SCHEDULE PAY RATES

5331. Definitions; application.
5332. The General Schedule.
5333. Minimum rate for new appointments; higher rates for supervisors of wage-board employees.
5334. Rate on change of position or type of appointment; regulations.
5335. Periodic step-increases.

Sec.
5336. Additional step-increases.
5337. Pay saving.
5338. Regulations.

SUBCHAPTER IV—PREVAILING RATE SYSTEMS
5341. Policy.
5342. Definitions; application.
5343. Prevailing rate determinations; wage schedules; night differentials.
5344. Effective date of wage increase; retroactive pay.
5345. Retained rate of pay on reduction in grade or reassignment.
5346. Job grading system.
5347. Federal Prevailing Rate Advisory Committee.
5348. Crews of vessels.
5349. Prevailing rate employees; legislative, judicial, Bureau of Engraving and Printing, and government of the District of Columbia.

SUBCHAPTER V—STUDENT-EMPLOYEES
5351. Definitions.
5352. Stipends.
5353. Quarters, subsistence, and laundry.
5354. Effect of detail or affiliation; travel expenses.
5355. Effect on other statutes.
5356. Appropriations.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS
5361. Scientific and professional positions.
5362. Hearing examiners.
5363. Limitation on pay fixed by administrative action.
5364. Miscellaneous positions in the executive branch.
5365. Police force of National Zoological Park.

AMENDMENTS

1975—Pub. L. 94-82, title II, § 202(b)(6), Aug. 9, 1975, 89 Stat. 420, added item 5318.

1972—Pub. L. 92-392, § 1(b), Aug. 19, 1972, 86 Stat. 572, substituted items 5341, 5343, 5344, and 5345 relating to "Policy", "Prevailing rate determinations; wage schedules; night differentials", "Effective date of wage increase; retroactive pay" and "Retained rate of pay on reduction in grade or reassignment", for such former items relating to "Trades and crafts", "Effective date of pay increase", "Retroactive pay" and "Position classification appeals", added items 5342, 5346, 5347, and 5349, and renumbered former item 5342 as 5348.

1971—Pub. L. 91-656, §§ 2(b)(2), 3(b) Jan. 8, 1971, 84 Stat. 1946, 1951, struck out item 5302 and added items 5305-5308, respectively.

1969—Pub. L. 91-34, § 1(b), June 30, 1969, 83 Stat. 41, added item 5365.

1967—Pub. L. 90-206, title II, § 223(b), Dec. 16, 1967, 81 Stat. 642, added item 5345.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 3102, 3109, 4301, 5102, 5304, 5541, 5544, 7154 of this title; title 15 section 770; title 18 section 3153; title 42 section 5872.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 23-1306 of the District of Columbia Code.

SUBCHAPTER I—PAY COMPARABILITY SYSTEM

§ 5301. Policy

(a) It is the policy of Congress that Federal pay fixing for employees under statutory pay systems be based on the principles that—

(1) there be equal pay for substantially equal work;

(2) pay distinctions be maintained in keeping with work and performance distinctions;

(3) Federal pay rates be comparable with private enterprise pay rates for the same levels of work; and

(4) pay levels for the statutory pay systems be interrelated.

(b) The pay rates of each statutory pay system shall be fixed and adjusted in accordance with the principles under subsection (a) of this section and the provisions of sections 5305, 5306, and 5308 of this title.

(c) For the purpose of this subchapter, "statutory pay system" means a pay system under—

(1) subchapter III of this chapter, relating to the General Schedule;

(2) subchapter IV of chapter 14 of title 22, relating to the Foreign Service of the United States; or

(3) chapter 73 of title 38, relating to the Department of Medicine and Surgery, Veterans' Administration.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 458; Pub. L. 91-656, § 2(a), Jan. 8, 1971, 84 Stat. 1946.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1171	Oct. 11, 1962, Pub. L. 87-793, § 502, 76 Stat. 841.

The words "It is the policy of Congress" are substituted for "The Congress hereby declares". The words "whereas the functions of a Federal salary system are to fix salary rates for the services rendered by Federal employees so as to make possible the employment of persons well qualified to conduct the Government's programs and to control expenditures of public funds for personal services with equity to the employee and to the taxpayer, and whereas fulfillment of these functions is essential to the development and maintenance of maximum proficiency in the civilian services of Government, then, accordingly" are omitted as unnecessary.

In the last sentence, the words "and henceforth" are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1971—Pub. L. 91-656 designated provisions of first sentence as subsec. (a), incorporating former cl. (1) in cls. (1) and (2), and former cl. (2) in cl. (3), and inserted "for employees under statutory pay systems" following introductory words "Federal pay fixing"; substituted subsec. (b) reading "The pay rates of each statutory pay system shall be fixed and adjusted in accordance with the principles under subsection (a) of this section and the provisions of sections 5305, 5306, and 5308 of this title" for former second sentence providing "Pay levels for the several Federal statutory pay systems shall be interrelated, and pay levels shall be set and adjusted in accordance with these principles"; and added subsec. (c).

SHORT TITLE

Section 1 of Pub. L. 91-656 provided that: "This Act [which enacted sections 5305 to 5308 and 5947 of this title, amended sections 5108(a), (c), 5301, and 5942 of this title and section 410(b)(1) of Title 39, repealed section 5302 of this title, and enacted provisions set out as notes under sections 5305 and 5942 of this title, section 60a of Title 2, and section 410 of Title 39] may be cited as the 'Federal Pay Comparability Act of 1970'."

IMPLEMENTATION OF SALARY COMPARABILITY POLICY IN 1968 AND 1969

Adjustment by President of rates of basic pay to implement salary comparability policy in 1968 and 1969, see section 212 of Pub. L. 90-206, set out as a note under section 5304 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5305, 5306 of this title.

[§ 5302. Repealed. Pub. L. 91-656, § 2(b)(1), Jan. 8, 1971, 84 Stat. 1946.]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 458, provided for annual reports on pay comparability and is now covered by section 5305 of this title.

§ 5303. Higher minimum rates; Presidential authority

(a) When the President finds that the pay rates in private enterprise for one or more occupations in one or more areas or locations are so substantially above the pay rates of statutory pay schedules as to handicap significantly the Government's recruitment or retention of well-qualified individuals in positions paid under—

(1) section 5332 of this title;

[(2) Repealed. Pub. L. 91-375, § 6(c)(10), Aug. 12, 1970, 84 Stat. 776;]

(3) the pay scales for physicians, dentists, and nurses in the Department of Medicine and Surgery, Veterans' Administration, under chapter 73 of title 38; or

(4) sections 867 and 870 of title 22;

he may establish for the areas or locations higher minimum rates of basic pay for one or more grades or levels, occupational groups, series, classes, or subdivisions thereof, and may make corresponding increases in all step rates of the pay range for each such grade or level. However, a minimum rate so established may not exceed the maximum pay rate prescribed by statute for the grade or level. The President may authorize the exercise of the authority conferred on him by this section by the Civil Service Commission or, in the case of individuals not subject to the provisions of this title governing appointment in the competitive service, by such other agency as he may designate.

(b) Within the limitations of subsection (a) of this section, rates of basic pay established under that subsection may be revised from time to time by the President or by such agency as he may designate. The actions and revisions have the force and effect of statute.

(c) An increase in rate of basic pay established under this section is not an equivalent increase in pay within the meaning of section 5335(a) of this title.

(d) The rate of basic pay established under this section and received by an individual immediately before a statutory increase, which becomes effective prior to, on, or after the date of enactment of the statute, in the pay schedule applicable to such individual of any pay system specified in subsection (a) of this section, shall be initially adjusted, effective on the effective date of the statutory increase, under conversion rules prescribed by the President or by such agency as the President may designate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 458; Pub. L. 90-206, title II, § 207, Dec. 16, 1967, 81 Stat. 631; Pub. L. 91-375, § 6(c)(10), Aug. 12, 1970, 84 Stat. 776; Pub. L. 94-183, § 2(16), Dec. 31, 1975, 89 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1173	Oct. 11, 1962, Pub. L. 87-793, § 504, 76 Stat. 842. Aug. 14, 1964, Pub. L. 88-426, § 123, 78 Stat. 412.

In subsection (a), the words "the provisions of this title governing appointment in the competitive service" are substituted for "the civil service laws and regulations".

In subsections (a), (b), and (d), the word "agency" is substituted for "agency or agencies" because the singular imports the plural, see 1 U.S.C. 1.

In subsection (d), the word "officer" is omitted as included in "employee", "agency" is substituted for "department", and "rules" is omitted as included in "regulations".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Subsec. (c). Pub. L. 94-183 deleted "and section 3552 of title 39" which followed "of section 5335(a) of this title".

1970—Subsec. (a)(2). Pub. L. 91-375 repealed cl. (2) making positions paid under provisions of part III of title 39 relating to employees in the postal field service subject to higher minimum rates established by the President.

1967—Subsec. (a). Pub. L. 90-206, § 207(a), substituted "maximum pay rate" for "seventh pay rate".

Subsec. (d). Pub. L. 90-206, § 207(b), added provisions that permitted an initial adjustment to be made to statutory increases which become effective prior to, on, or after the date of enactment of the statute.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as a note under section 3110 of this title.

IMPLEMENTATION OF SALARY COMPARABILITY POLICY IN 1968 AND 1969

Adjustment by President of rates of basic pay to implement salary comparability policy in 1968 and 1969, see section 212 of Pub. L. 90-206, set out as a note under section 5304 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3326 of this title; title 42 section 294t.

§ 5304. Presidential policies and regulations

The functions, duties, and regulations of the agencies and the Civil Service Commission with respect to this subchapter, subchapter III of this chapter, chapter 51 of this title, chapter 14 of title 22, and the provisions of chapter 73 of title 38 relating to employees in the Department of Medicine and Surgery, Veterans' Administration, are subject to such policies and regulations as the President may prescribe. Among other things, the policies and regulations of the President may provide for—

(1) preparing and reporting to him the annual comparison of Federal pay rates with private enterprise rates;

(2) obtaining and reporting to him the views of employee organizations on the annual comparison, and on other pay matters;

(3) reviewing and reporting to him on the adequacy of the Federal statutory pay structures for the Federal programs to which they apply;

(4) reviewing the relationship of Federal statutory pay rates and private enterprise pay rates in specific occupation and local areas; and

(5) providing step-increases in recognition of high quality performance and providing for properly relating supervisory pay rates paid under one system to those of subordinates paid under another system.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 459; Pub. L. 91-375, § 6(c)(11), Aug. 12, 1970, 84 Stat. 776.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1174	Oct. 11, 1962, Pub. L. 87-793, § 505, 76 Stat. 842.

The words "agencies" and "regulations" are substituted for "departments" and "rules", respectively.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1970—Pub. L. 91-375 struck out provisions making functions, duties and regulations of the agencies and the Civil Service Commission with respect to the provisions of part III of title 39 relating to employees in the postal field service subject to Presidential policies and regulations.

Effective Date of 1970 Amendment

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

Presidential Adjustment of Pay Rates To Implement Salary Comparability Policy in 1968 and 1969

Section 212 of Pub. L. 90-206, title II, Dec. 16, 1967, 81 Stat. 634, provided that:

"In order to complete the implementation of the policy of the Congress set forth in paragraph (2) of section 5301 of title 5, United States Code, the President, after seeking the views of such employee organizations as he considers appropriate and in such manner as he may provide, shall—

"(1) effective on the first day of the first pay period beginning on or after July 1, 1968, adjust the rates of basic pay, basic compensation, and salary, as in effect by reason of the enactment of the provisions of this title [see Short Title note under section 5332 of this title] other than this section and sections 205, 210, 213, 214, 215, and 219—

"(A) by amounts equal, as nearly as may be practicable, to one-half of the amounts by which such rates are exceeded by rates of pay paid for the same levels of work in private enterprise as determined on the basis of the 1967 annual survey conducted by the Bureau of Labor Statistics in accordance with the provisions of section 5302 of title 5, United States Code, or

"(B) by 3 per centum,

"whichever is greater; and

"(2) effective on the first day of the first pay period beginning on or after July 1, 1969, adjust the rates he has established under subparagraph (1) of this section, and the rates established by Postal Field Service Schedule II, and Rural Carrier Schedule II (contained in the amendments made by subsections (a) and (b) of section 205 [to sections 3542 and 3543 of Title 39], by amounts equal, as nearly as may be practicable, to the amounts by which such rates are exceeded by rates of pay paid for the same levels of work in private enterprise as determined on the basis of the 1968 annual survey conducted by the Bureau of Labor Statistics in accordance with the provisions of section 5302 of title 5, United States Code.

"Adjustments made by the President under this section shall have the force and effect of statute. The rates of pay of personnel subject to sections 210, 213 (except subsections (d) and (e)), and 214 of this title [see Short Title note under section 5332 of this title], and any minimum or maximum rate, limitation, or allowance applicable to any such personnel, shall be adjusted, by amounts which are equal, insofar as practicable and with such exceptions as may be necessary to provide for appropriate relationships between positions, to the amounts of the adjustments made by the President under subparagraphs (1) and (2) of this section, by the following authorities—

"(i) the President pro tempore of the Senate, with respect to the United States Senate;

"(ii) the Speaker of the House of Representatives with respect to the United States House of Representatives;

"(iii) the Architect of the Capitol, with respect to the Office of the Architect of the Capitol;

"(iv) the Director of the Administrative Office of the United States Courts, with respect to the judicial branch of the Government; and

"(v) the Secretary of Agriculture, with respect to persons employed by the county committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b)).

"Such adjustments shall be made in such manner as the appropriate authority concerned deems advisable and shall have the force and effect of statute. Nothing in this section shall impair any authority pursuant to which rates of pay may be fixed by administrative action." [Section 212 of Pub. L. 90-206 effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as a note under section 3110 of this title.]

Executive Order No. 11073

Ex. Ord. No. 11073, Jan. 7, 1963, 28 F.R. 203, as amended by Ex. Ord. No. 11173, Aug. 20, 1964, 29 F.R. 11999, formerly set out as a note under this section, which provided for federal salary administration, was superseded by Ex. Ord. No. 11721, May 23, 1973, 38 F.R. 13717, set out as a note under this section.

Ex. Ord. No. 11721. Federal Pay Administration

Ex. Ord. No. 11721, May 23, 1973, 38 F.R. 13717, provided:

By virtue of the authority vested in me by sections 5303, 5304, and 5305 of title 5, United States Code, and as President of the United States, it is hereby ordered as follows:

PART I—GENERAL POLICY

Section 101. Heads of agencies are directed:

(a) To make full use of the authorities in chapter 53 of title 5, United States Code [this chapter], and the statutory pay systems to which section 5301 of that chapter refers to secure and maintain the high quality of Federal personnel necessary for an effective and efficient Government service;

(b) To use these authorities to (1) motivate employees to perform continuously at their full capacity, and (2) provide fair treatment in pay matters of all employees subject to the statutory pay systems; and

(c) To take appropriate measures to ensure that the Government receives full value for its expenditures for salaries and that every employee is paid no more than is warranted by the nature of his assignments and the degree of competence with which he performs them.

Sec. 102. As used in this order, the term "agency" has the meaning given to it by section 5102(a) of title 5, United States Code.

PART II—ANNUAL PAY REVIEW

Section 201. The Director, Office of Management and Budget, and the Chairman, United States Civil Service Commission, are hereby designated as the President's agent under section 5305 of title 5, United States Code.

Sec. 202. The head of each agency employing personnel under the statutory pay systems (as defined in section 5301(c) of title 5, United States Code) shall provide such information and technical assistance with respect to the statutory pay systems applicable to his agency as may be requested by the President's agent in carrying out the provisions of section 5305 of title 5, United States Code.

Sec. 203. The following agencies are designated under section 5305(q) of title 5, United States Code, to prescribe the rules necessary to convert the rates of basic pay or salaries of officers and employees to the new pay rates as adjusted for each statutory pay system under section 5305 of title 5, United States Code:

(i) General Schedule—the Civil Service Commission;

(ii) Foreign Service schedules—the Department of State;

(iii) Schedules for the Department of Medicine and Surgery of the Veterans Administration—the Veterans Administration.

PART III—SPECIAL RATES FOR RECRUITMENT AND RETENTION

Section 301(a). The Civil Service Commission is hereby designated to exercise—

(1) the authority of the President under section 5303 (a) and (b) of title 5, United States Code, to establish or revise higher minimum rates of pay, and

(2) the authority of the President under section 5303 (d) of title 5, United States Code, to prescribe conversion rules for adjusting an employee's pay.

(b) Before exercising these functions for positions compensated under the Foreign Service schedules or under the schedules for physicians, dentists, and nurses in the Department of Medicine and Surgery of the Veterans Administration, the Civil Service Commission shall consult with the head of the agency concerned.

Sec. 302(a). Before establishing higher rates of pay under section 5303(a) of title 5, United States Code, the Civil Service Commission shall consider whether—

(1) an adequate recruiting program has been implemented and that attention has been given to the improvement of working conditions and to other relevant factors; and

(2) adequate recruitment or retention cannot be achieved by alternate means such as job redesign or skills improvement training programs.

(b) The Civil Service Commission may not establish higher rates for all positions in a statutory grade or level in a given area unless the Commission determines that adequate recruitment and retention cannot be achieved by establishment of higher rates for certain occupations or groups of occupations.

Sec. 303. The Civil Service Commission shall review, at least annually, higher rates of pay established under section 5303(a) of title 5, United States Code, and shall continue, abolish, or revise the higher rates in consideration of the facts and pertinent criteria under the law and this order.

Sec. 304. An employee's basic pay rate may not be reduced solely because of a revision to, or cancellation of, the higher rates established under section 5303(a) of title 5, United States Code.

PART IV—GENERAL SCHEDULE SYSTEM

Section 401(a). Heads of agencies shall ensure that agency managers and supervisors at all levels use the position classification plan of the General Schedule system as a tool for effective and efficient human resources utilization.

(b) The Civil Service Commission shall revoke the position classification authority of an agency under the General Schedule whenever the Commission finds, in connection with its regular evaluation, or otherwise, that an agency has failed to classify its positions in accordance with or consistently with applicable standards.

Sec. 402. The Civil Service Commission shall issue such regulations and standards as may be necessary to ensure that only those employees whose work is of an acceptable level of competence receive periodic step-increases under the provisions of section 5335 of title 5, United States Code.

Sec. 403(a). The Civil Service Commission shall require each agency employing personnel under the General Schedule to establish a plan for granting additional step-increases in recognition of high quality performance under section 5336 of title 5, United States Code, and shall require that the plans (1) be as simple as practicable, (2) provide for delegation of authority to an appropriate management level, (3) seek to ensure fairness to all employees, and (4) provide for informing employees, at least annually, of the number of additional step-increases granted in their agencies.

(b) The Civil Service Commission shall (1) establish such regulations and standards as it deems appropriate for agency plans, (2) aid and advise agencies in the formulation and administration of the plans, and (3) evaluate the plans and their operation to ensure that step-increases are granted in a manner that is fair to employees and provides motivation for high quality performance.

Sec. 404. The Civil Service Commission, in prescribing regulations for higher rates of pay under section 5333(b) of title 5, United States Code, for employees having responsibility for supervision of prevailing-rate employees, shall give effect to the following;

(a) An irregular prevailing rate (such as the saved rate of a prevailing-rate employee not related to his current position) shall not serve to advance the pay rate of a supervisor under the General Schedule.

(b) The relative rate-range of a General Schedule supervisor and a prevailing-rate employee supervised by him shall be considered as well as the specific rate either is receiving at a given time.

(c) Due consideration shall be given to equities among General Schedule supervisors as well as those between a General Schedule supervisor and a prevailing-rate employed supervised by him.

PART V—PRIOR ORDER SUPERSEDED

Section 501. Executive Order 11073 of January 2, 1963, and Executive Order 11173 of August 20, 1964, are hereby superseded.

RICHARD NIXON.

§ 5305. Annual pay reports and adjustments

(a) In order to carry out the policy stated in section 5301 of this title, the President shall—

(1) direct such agent as he considers appropriate to prepare and submit to him annually, after considering such views and recommendations as may be submitted under the provisions of subsection (b) of this section, a report that—

(A) compares the rates of pay of the statutory pay systems with the rates of pay for the same levels of work in private enterprise as determined on the basis of appropriate annual surveys that shall be conducted by the Bureau of Labor Statistics;

(B) makes recommendation for appropriate adjustments in rates of pay; and

(C) includes the views and recommendations submitted under the provisions of subsection (b) of this section;

(2) after considering the report of his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b)(3) of this title, adjust the rates of pay of each statutory pay system in accordance with the principles under section 5301(a) of this title, effective as of the beginning of the first applicable pay period commencing on or after October 1 of the applicable year; and

(3) transmit to Congress a report of the pay adjustment, together with a copy of the report submitted to him by his agent and the findings and recommendations of the Advisory Committee on Federal Pay reported to him under section 5306(b)(3) of this title. The report transmitted to the Congress under this subsection shall specify the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustment in the rates of pay under the other statutory pay systems.

(b) In carrying out its functions under subsection (a)(1) of this section, the President's agent shall—

(1) establish a Federal Employees Pay Council of 5 members who shall not be deemed to be employees of the Government of the United States by reason of appointment to the Council and shall not receive pay by reason of service as members of the Council, who shall be representatives of employee organizations which represent substantial numbers of employees under the statutory pay systems, and who shall be selected with due consideration to such factors as the relative numbers of employees represented by the various organizations, but no more than 3 members of the Council at any one time shall be from a single employee organization, council, federation, alliance, association, or affiliation of employee organizations;

(2) provide for meetings with the Federal Employees Pay Council and give thorough consideration to the views and recommendations of the Council and the individual views and recommendations, if any, of the members of the Council regarding—

(A) the coverage of the annual survey conducted by the Bureau of Labor Statistics under subsection (a)(1) of this section (including, but not limited to, the occupations, establishment sizes, industries, and geographical areas to be surveyed);

(B) the process of comparing that rates of pay of the statutory pay systems with rates of pay for the same levels of work in private enterprise; and

(C) the adjustments in the rates of pay of the statutory pay systems that should be made to achieve comparability between those rates and the rates of pay for the same levels of work in private enterprise;

(3) give thorough consideration to the views and recommendations of employee organizations not represented on the Federal Employees Pay Council regarding the subjects in paragraph (2)(A)-(C) of this subsection; and

(4) include in its report to the President the views and recommendations submitted as provided in this subsection by the Federal Employees Pay Council, by any member of that Council, and by employee organizations not represented on that Council.

(c)(1) If, because of national emergency or economic conditions affecting the general welfare, the President should, in any year, consider it inappropriate to make the pay adjustment required by subsection (a) of this section, he shall prepare and transmit to Congress before September 1 of that year such alternative plan with respect to a pay adjustment as he considers appropriate, together with the reasons therefor, in lieu of the pay adjustments required by subsection (a) of this section. The report transmitted to the Congress under this subsection shall specify the overall percentage of the adjustment in the rates of pay under the General Schedule and of the adjustment in the rates of pay under the other statutory pay systems.

(2) An alternative plan transmitted by the President under paragraph (1) of this subsection becomes effective on the first day of the first applicable pay period commencing on or after October 1 of the applicable year and continues in effect unless, before the end of the first period of 30 calendar days of continuous session of Congress after the date on which the alternative plan is transmitted, either House adopts a resolution disapproving the alternative plan so recommended and submitted, in which case the pay adjustments for the statutory pay systems shall be made effective as provided by subsection (m) of this section. The continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 30-day period.

(d) Subsections (e)-(k) of this section are enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the House in the case of resolutions described by this section; and they supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(e) If the committee, to which has been referred a resolution disapproving the alternative plan of the President, has not reported the resolution at the end of 10 calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the resolution or to discharge the committee from further consideration of any other resolution with respect to the same plan which has been referred to the committee.

(f) A motion to discharge may be made only by an individual favoring the resolution, is highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same recommendation), and debate thereon is limited to not more than 1 hour, to be divided equally between those favoring and those apposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(g) If the motion to discharge is agreed to, or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same alternative plan.

(h) When the committee has reported, or has been discharged from further consideration of, a resolution with respect to an alternative plan, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(i) Debate on the resolution is limited to not more than 2 hours, to be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the resolution is not in order, and it is not in order to move to reconsider the vote by which the resolution is agreed to or disagreed to.

(j) Motions to postpone, made with respect to the discharge from committee, or the consideration of, a resolution with respect to an alternative plan, and motions to proceed to the consideration of other business, are decided without debate.

(k) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution with respect to an alternative plan are decided without debate.

(*l*) The rates of pay which become effective under this section are the rates of pay applicable to each position concerned, and each class of positions concerned, under a statutory pay system.

(m) If either House adopts a resolution disapproving an alternative plan submitted under subsection (c) of this section, the President shall take action required by paragraphs (2) and (3) of subsection (a) of this section and adjust the rates of pay of the statutory pay systems effective as of the beginning of the first applicable pay period commencing on or after the date on which the resolution is adopted, or on or after October 1, whichever is later.

(n) The rates of pay that take effect under this section shall modify, supersede, or render inapplicable, as the case may be, to the extent inconsistent therewith—

(1) all provisions of law enacted prior to the effective date or dates of all or part (as the case may be) of the increases; and

(2) any prior recommendations or adjustments which took effect under this section or prior provisions of law.

(*o*) The rates of pay that take effect under this section shall be printed in the Federal Register and the Code of Federal Regulations.

(p) An increase in rates of pay that takes effect under this section is not an equivalent increase in pay within the meaning of section 5335 of this title.

(q) Any rate of pay under this section shall be initially adjusted, effective on the effective date of the rate of pay, under conversion rules prescribed by the President or by such agencies as the President may designate.

(r) This section does not impair any authority pursuant to which rates of pay may be fixed by administrative action.

(Added Pub. L. 91-656, § 3(a), Jan. 8, 1971, 84 Stat. 1946, and amended Pub. L. 94-82, title II, § 202(C), Aug. 9, 1975, 89 Stat. 420.)

AMENDMENTS

1975—Subsec. (a)(3). Pub. L. 94-82, § 202(c)(1), added provision relating to specification in the report to the Congress of the overall percentage of the adjustment in the rates of pay under the General Schedule and under other statutory pay systems.

Subsec. (c)(1). Pub. L. 94-82, § 202(c)(2), added provision relating to specification in the report to the Congress of the overall percentage of the adjustment in the rates of pay under the General Schedule and under other statutory pay systems.

EQUITABLE WAGE ADJUSTMENTS FOR CERTAIN PREVAILING RATE EMPLOYEES

Sections 1 and 2 of Pub. L. 92-298, May 17, 1972, 86 Stat. 146, provided:

"That this Act [enacting provisions set out as notes under this section and amending notes set out under sections 60a-1 and 60a-2 of Title 2, The Congress] may be cited as the 'Prevailing Rate Equalization Adjustment Act of 1972'.

"Sec. 2. (a) Notwithstanding any other provision of law or any provision of an Executive order or regulation, a wage schedule adjustment for employees of the Government of the United States whose pay is fixed and adjusted from time to time in accordance with prevailing rates—

"(1) if based on a wage survey ordered to be made on or after August 15, 1971, but not placed into effect before November 14, 1971, by reason of the provisions of Executive Order 11615 or Executive Order 11627 [formerly set out as notes under section 1904 of Title 12]; or

"(2) if based on a wage survey which had been scheduled to be made during the period beginning on September 1, 1971, and ending on January 12, 1972, and which was ordered to be made on or after January 23, 1972;

shall be effective on the date on which such wage schedule adjustment would have been effective under section 5343 of title 5, United States (Code), had the fiscal year 1972 schedule for wage surveys for such employees been followed.

"(b) Retroactive pay made under the provisions of this section will be made in accordance with section 5344 of title 5, United States Code."

ADJUSTMENTS IN RATES OF PAY OF FEDERAL STATUTORY PAY SYSTEMS; EFFECTIVE DATE

Pub. L. 92-210, § 3, Dec. 22, 1971, 85 Stat. 753, provided that:

"Notwithstanding any provision of section 3(c) of the Federal Pay Comparability Act of 1970 (Public Law 91-656), or of section 5305 of title 5, United States Code, as added by section 3(a) of Public Law 91-656, and the provisions of the alternative plan submitted by the President to the Congress pursuant thereto on August 31, 1971, such comparability adjustments in the rates of pay of each Federal statutory pay system as may be required under such sections 5305 and 3(c), based on the 1971 Bureau of Labor Statistics survey—

"(1) shall not be greater than the guidelines established for the wage and salary adjustments for the private sector that may be authorized under authority of any statute of the United States, including the Economic Stabilization Act of 1970 (Public Law 91-379; 84 Stat. 799), as amended [set out as a note under section 1904 of Title 12], and that may be in effect on December 31, 1971; and

"(2) shall be placed into effect on the first day of the first pay period that begins on or after January 1, 1972.

Nothing in this section shall be construed to provide any adjustments in rates of pay of any Federal statutory pay system which are greater than the adjustments based on the 1971 Bureau of Labor Statistics survey."

Initial Adjustment; Effective Date; Exception

Section 3(c) of Pub. L. 91-656 provided that:

"The President may make the initial adjustment required by subchapter I of chapter 53 of title 5, United States Code, as amended by this Act, without regard to the provisions of such subchapter relating to the Advisory Committee on Federal Pay and the Federal Employees Pay Council. Notwithstanding any provision of such subchapter I prescribing an effective date of October 1 for any pay adjustment made by the President, the initial adjustment based on the 1970 Bureau of Labor Statistics survey and the adjustment based on the 1971 Bureau of Labor Statistics survey shall become effective on the first day of the first applicable pay period that begins on or after January 1, 1971, and January 1, 1972, respectively. Notwithstanding the provisions of such subchapter I, the President's agent for purposes of the 1971 and 1972 adjustments shall be the Director, Office of Management and Budget and the Chairman, United States Civil Service Commission. Adjustments under the provisions of such subchapter I shall not apply to employees of the Post Office Department whose basic pay is fixed under the General Schedule."

Ex. Ord. No. 11639. Pay Adjustments for Federal Prevailing Rate Systems

Ex. Ord. No. 11639, Jan. 11, 1972, 37 F.R. 521, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the Economic Stabilization Act of 1970 (Public Law 91-379, 84 Stat. 799), as amended by the Economic Stabilization Act Amendments of 1971 (Public Law 92-210, 85 Stat. 743) [set out as a note under section 1904 of Title 12, Banks and Banking], it is hereby ordered as follows:

Section 1. The head of each executive agency or military department authorized to fix by administrative action the rate of basic pay for a position or employee under subchapter IV of chapter 53 of title 5 of the United States Code [this subchapter], shall fix any such rate in accordance with instructions issued by the United States Civil Service Commission (hereinafter referred to as the Commission) under the authority of this order.

Sec. 2. (a) The Commission is hereby authorized and directed to issue to the heads of executive agencies and military departments instructions on the fixing of rates of basic pay for positions and employees covered by section 1 of this order.

(b) In issuing instructions under this order, the Commission shall maintain consistency in each pay schedule adjustment with the fiscal and economic policies of the United States, including the policies and pay increase guidelines issued by the Pay Board established under Executive Order No. 11627 of October 15, 1971. No pay schedule adjustment shall exceed such guidelines, except where (i) a tandem relationship exists between a Federal pay schedule for a specialized employee unit and pay increases granted in a specialized activity in the private sector, (ii) the Pay Board has permitted a pay increase for the specialized activity in the private sector which is in excess of the guidelines, and (iii) it is determined that a comparable increase is essential to the continued operation of the Government service concerned.

Sec. 3. The instructions issued by the Commission under this order may (i) prescribe definitions of the terms used herein, (ii) redelegate to the head of an executive agency or military department any of the Commission's authority under this order, and (iii) contain such other provisions as the Commission determines to be necessary and appropriate to carry out the purposes of this order.

Sec. 4. (a) The Commission may, in administering this order, utilize such services of other executive agencies and military departments as may be available and appropriate.

(b) On request of the Commission, an executive agency or military department is authorized and directed, consistent with law, to furnish the Commission with information which the Commission may require in carrying out its responsibilities under this order.

Richard Nixon.

Section Referred to in Other Sections

This section is referred to in sections 5301, 5307, 5318 of this title; title 2 sections 31, 60a-1, 60a-2; title 3 section 104; title 28 section 461.

Section Referred to in D.C. Code

This section is referred to in section 4-833 of the District of Columbia Code.

§ 5306. Advisory Committee on Federal Pay

(a) There is established as an independent establishment an Advisory Committee on Federal Pay, to be composed of 3 members, not otherwise employed in the Government of the United States, appointed by the President. The Director of the Federal Mediation and Conciliation Service shall, and other interested parties may, recommend to the President for his consideration persons generally recognized for their impartiality, knowledge, and experience in the field of labor relations and pay policy to serve as members. The President shall designate one of the members as Chairman. Each appointment shall be for a term of 6 years, except that one of the original members shall be appointed for a term of 2 years, and another for a term of 4 years. A member appointed to fill a vacancy occurring before the end of the term of his predecessor shall serve for the remainder of that term. When the term of a member ends, he may continue to serve until his successor is appointed.

(b) To assist the President in carrying out the policy under section 5301 of this title, the Committee shall—

(1) review the annual report of the President's agent;

(2) consider such further views and recommendations with respect to the analysis and pay proposals contained in the annual report of the President's agent as may be presented to it in writing by employee organizations, the President's agent, other officials of the

Government of the United States, and such experts as it may consult; and

(3) report its findings and recommendations to the President.

(c) The Committee may secure from any Executive agency or military department information, suggestions, estimates, statistics, and technical assistance for the purpose of carrying out its functions. Each such Executive agency or military department shall furnish the information, suggestions, estimates, statistics, and technical assistance directly to the Committee on request of the Committee.

(d) On request of the Committee the head of any Executive agency or military department may detail, on a reimbursable basis, any of its personnel to assist the Committee in carrying out its functions.

(e) The Administrator of General Services shall provide administrative support services for the Committee on a reimbursable basis.

(f) The Committee may obtain services of experts or consultants in accordance with section 3109 of this title but at rates for individuals not to exceed that of the highest rate of basic pay then currently being paid under the General Schedule of subchapter III of this chapter.

(g) Each member of the Committee is entitled to pay at the daily equivalent of the annual rate of basic pay of level IV of the Executive Schedule for each day he is engaged on work of the Committee, and is entitled to travel expenses, including a per diem allowance, in accordance with section 5703(b) of this title.

(h) The Committee may appoint and fix the pay of such personnel as may be necessary to carry out its functions.

(Added Pub. L. 91-656, § 3(a), Jan. 8, 1971, 84 Stat. 1949.)

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix I to this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5301, 5305 of this title.

§ 5307. Pay fixed by administrative action

(a) Notwithstanding section 665 of title 31—

(1) the rates of pay of—

(A) employees in the legislative, executive, and judicial branches of the Government of the United States (except employees whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) and of the government of the District of Columbia, whose rates of pay are fixed by administrative action under law and are not otherwise adjusted under this subchapter;

(B) employees under the Architect of the Capitol, whose rates of pay are fixed under section 166b-3 of title 40, and the Superintendent of Garages, House office buildings; and

(C) persons employed by the county committees established under section 590h(b) of title 16; and

(2) any minimum or maximum rate of pay (other than a maximum rate equal to or greater than the maximum rate then currently being paid under the General Schedule as a result of the pay adjustment by the President), and any monetary limitation on or monetary allowance for pay, applicable to employees described in subparagraphs (A), (B), and (C) of paragraph (1) of this subsection;

may be adjusted, by the appropriate authority concerned, effective at the beginning of the first applicable pay period commencing on or after the day on which a pay adjustment becomes effective under section 5305 of this title, by whichever of the following methods the appropriate authority concerned considers appropriate—

(i) by an amount or amounts not in excess of the pay adjustment provided under section 5305 of this title for corresponding rates of pay in the appropriate schedule or scale of pay;

(ii) if there are no corresponding rates of pay, by an amount or amounts equal or equivalent, insofar as practicable and with such exceptions and modifications as may be necessary to provide for appropriate pay relationships between positions, to the amount of the pay adjustment provided under section 5305 of this title; or

(iii) in the case of minimum or maximum rates of pay, or monetary limitations of allowances with respect to pay, by an amount rounded to the nearest $100 and computed on the basis of a percentage equal or equivalent, insofar as practicable and with such variations as may be appropriate, to the percentage of the pay adjustment provided under section 5305 of this title.

(b) An adjustment under subsection (a) of this section in rates of pay, minimum or maximum rates of pay, and monetary limitations or allowances with respect to pay, shall be made in such manner as the appropriate authority concerned considers appropriate.

(c) This section does not authorize any adjustment in the rates of pay of employees whose rates of pay are fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates or practices.

(d) This section does not impair any authority under which rates of pay may be fixed by administrative action.

(Added Pub. L. 91-656, § 3(a), Jan. 8, 1971, 84 Stat. 1950.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 40 section 174j-8.

§ 5308. Pay limitation

Pay may not be paid, by reason of any provision of this subchapter, at a rate in excess of the rate of basic pay for level V of the Executive Schedule.

(Added Pub. L. 91-656, § 3(a), Jan. 8, 1971, 84 Stat. 1951.)

Section Referred to in Other Sections

This section is referred to in section 5301 of this title; title 38 section 4107.

SUBCHAPTER II—EXECUTIVE SCHEDULE PAY RATES

Subchapter Referred to in Other Sections

This subchapter is referred to in section 5364 of this title; title 31 section 42a; title 40 App. section 101; title 44 section 303.

Subchapter Referred to in D.C. Code

This subchapter is referred to in section 4-823 of the District of Columbia Code.

§ 5311. The Executive Schedule

The Executive Schedule, which is divided into five pay levels, is the basic pay schedule for positions to which this subchapter applies.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 459.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2210	Aug. 14, 1964, Pub. L. 88-426, § 302, 78 Stat. 415.

The words "There is hereby established" are omitted as executed. The word "offices" is omitted as included in "positions". The words "Executive Schedule" are substituted for "Federal Executive Salary Schedule".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5312. Positions at level I

Level I of the Executive Schedule applies to the following positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Secretary of State.
(2) Secretary of the Treasury.
(3) Secretary of Defense.
(4) Attorney General.
[(5) Repealed. Pub. L. 91-375, § 6(c)(12), Aug. 12, 1970, 84 Stat. 776.]
(6) Secretary of the Interior.
(7) Secretary of Agriculture.
(8) Secretary of Commerce.
(9) Secretary of Labor.
(10) Secretary of Health, Education, and Welfare.
(11) Secretary of Housing and Urban Development.
(12) Secretary of Transportation.
(13) Special Representative for Trade Negotiations.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 460; Pub. L. 89-670, § 10(d)(1), Oct. 15, 1966, 80 Stat. 948; Pub. L. 91-375, § 6(c)(12), Aug. 12, 1970, 84 Stat. 776; Pub. L. 93-618, title I, § 141(b)(3)(A), Jan. 3, 1975, 88 Stat. 1999; Pub. L. 94-82, title II, § 202(b)(1), Aug. 9, 1975, 89 Stat. 419.)

1977 Increases in Salaries

Salaries of positions at Level I increased to $66,000 per annum, upon recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1976 Increases in Salaries

Salaries of positions at Level I increased to $66,000 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1976, see Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 5332 of this title. Ex. Ord. No. 11941, further provided that pursuant to the Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1976, which was $63,000.

1975 Increases in Salaries

Salaries of positions at Level I increased to $63,000 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1975, by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091.

1969 Increases in Salaries

Salaries of positions at Level I increased from $35,000 to $60,000 per annum, commencing on the first day of the pay period which begins after February 14, 1969, upon recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2211(a).	Aug. 14, 1964, Pub. L. 88-426, § 303(a), 78 Stat. 416.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1975—Pub. L. 94-82 substituted provisions applying level I of the Executive Schedule to positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title for provisions applying such level I to positions for which the annual rate of basic pay is $35,000.

Par. (13). Pub. L. 93-618 added par. (13).

1970—Par. (5). Pub. L. 91-375 repealed provision for inclusion of position of Postmaster General in level I of the Executive Schedule.

1966—Pub. L. 89-670 added items (11) and (12).

Effective Date of 1970 Amendment

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

Effective Date of 1966 Amendment

Amendment by Pub. L. 89-670 effective 90 days after the Secretary of Transportation first takes office, or on any earlier date after Oct. 15, 1966, as the President prescribes and publishes in the Federal Register, see section 15(a) of Pub. L. 89-670, set out in the note under section 1651 of Title 49, Transportation.

Short Title of 1975 Amendment

Section 201 of Pub. L. 94-82 provided that: "This title [enacting section 5318 of this title and section 461 of Title 28, Judiciary and Judicial Procedure, amending this section and sections 5305, 5313, 5314, 5315 and 5316 of this title, sections 31, 60a note, 136a, 136a-1 and 356 of Title 2. The Congress, section 104 of Title 3, The President, section 68 of Title 11, Bankruptcy, sections 5, 44, 135, 173, 213, 252 and 792 of Title 28, sections 42a and 51a of Title 31, Money and Finance, sections 162a and 166b of Title 40, Public Buildings, Property, and Works, and section 303 of Title 44, Public Printing and Documents, and enacting provisions set out as a note under section 356 of Title 2] may be cited as the 'Executive Salary Cost-of-Living Adjustment Act'."

COMPENSATION AND EMOLUMENTS OF ATTORNEY GENERAL; FIXING AT LEVEL IN EFFECT ON JANUARY 1, 1969

Provisions of Pub. L. 93-178, § 1, Dec. 10, 1973, 87 Stat. 697, which fixed the compensation and other emoluments attached to the Office of Attorney General at level in effect on Jan. 1, 1969, notwithstanding any other provision of law enacted or becoming effective during period from noon, Jan. 3, 1969, through noon, Jan. 2, 1975, were repealed by Pub. L. 94-2, Feb. 18, 1975, 89 Stat. 4, effective as of Feb. 4, 1975. Present provisions are now set out as a note under section 358 of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 12 section 1723a; title 39 section 1003; title 45 sections 543, 712.

§ 5313. Positions at level II

Level II of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Deputy Secretaries of Defense (2).

(2) Deputy Secretary of State.

(3) Administrator, Agency for International Development.

(4) Administrator of the National Aeronautics and Space Administration.

(5) Administrator of Veterans' Affairs.

(6) Deputy Secretary of the Treasury.

(7) Deputy Secretary of Transportation.

(8) Chairman, Nuclear Regulatory Commission.

(9) Chairman, Council of Economic Advisers.

(10) Chairman, Board of Governors of the Federal Reserve System.

(11) Director of the Bureau of the Budget.

(12) Director of the Office of Science and Technology.

(13) Director of the United States Arms Control and Disarmament Agency.

(14) Director of the United States Information Agency.

(15) Director of Central Intelligence.

(16) Secretary of the Air Force.

(17) Secretary of the Army.

(18) Secretary of the Navy.

(19) Administrator, Federal Aviation Administration.

(19) [1]Director of the National Science Foundation.

(20) Deputy Attorney General.

[(21) Repealed. Pub. L. 94-237, § 4(c)(6), Mar. 19, 1976, 90 Stat. 244.]

(22) Administrator of Energy Research and Development Administration.

(23) Deputy Secretary of Agriculture.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 460; Pub. L. 89-670, § 10(d)(2), Oct. 15, 1966, 80 Stat. 948; Pub. L. 90-83, § 1(13), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90-407, § 15(a)(1), July 18, 1968, 82 Stat. 366; Pub. L. 91-644, title I, § 8(b), Jan. 2, 1971, 84 Stat. 1888; Pub. L. 92-255, title II, § 212(a), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92-302, § 2(a), May 18, 1972, 86 Stat. 149; Pub. L. 92-352, title I, § 104(1), July 13, 1972, 86 Stat. 490; Pub. L. 92-596, § 6, Oct. 27, 1972, 86 Stat. 1318; Pub. L. 93-438, title III, § 310(1), Oct. 11, 1974, 88 Stat. 1252; Pub. L. 93-496, § 16(c), Oct. 28, 1974, 88 Stat. 1533; Pub. L. 94-82, title II, § 202(b)(2), Aug. 9, 1975, 89 Stat. 419; Pub. L. 94-237, § 4(c)(6), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94-561, § 1(a), Oct. 19, 1976, 90 Stat. 2643.)

1977 INCREASES IN SALARIES

Salaries of positions at Level II increased to $57,500 per annum, upon recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1976 INCREASES IN SALARIES

Salaries of positions at Level II increased to $46,800 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1976, see Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 5332 of this title. Ex. Ord. No. 11941, further provided that pursuant to the Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1976, which was $44,600.

1975 INCREASES IN SALARIES

Salaries of positions at Level II increased to $44,600 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1975, by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091.

1969 INCREASES IN SALARIES

Salaries of positions at Level II increased from $30,000 to $42,500 per annum, commencing on the first day of the pay period which begins after February 14, 1969, upon recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2211 (b) (less (15)).	Aug. 14, 1964, Pub. L. 88-426, § 303(b) (less (15)), 78 Stat. 416.

The proviso in paragraph (15) of former section 2211(b) is carried into section 5314. The remainder of paragraph (15) is omitted but not repealed, see table III. The part of paragraph (15) that is omitted but not repealed provides that the position of Director of the Federal Bureau of Investigation shall be in Level II of the Federal Executive Salary Schedule so long as the position is held by the incumbent of the position on August 14, 1964. The omission of this provision from title 5, without repealing the corresponding provision of the source statute, in effect leaves existing statute unchanged insofar as it relates to the present incumbent of the position of Director of the Federal Bureau of Investigation.

---

[1] So in original.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

The deletion of paragraph (6) of 5 U.S.C. 5313 reflects the abolition of the position of "Administrator of the Housing and Home Finance Agency" by the act of September 9, 1965, Public Law 89-174, sections 5(a), 9(c), 79 Stat. 669, 671.

Amendments

1976—Par. (21). Pub. L. 94-237 struck out par. (21) "Director of the Special Action Office for Drug Abuse Prevention".

Par. (23). Pub. L. 94-561 added par. (23).

1975—Pub. L. 94-82 substituted provisions applying level II of the Executive Schedule to positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level II to positions for which the annual rate of basic pay is $30,000.

1974—Par. (7). Pub. L. 93-496 substituted "Deputy Secretary of Transportation" for "Under Secretary for Transportation".

Par. (8). Pub. L. 93-438 substituted "Chairman, Nuclear Regulatory Commission" for "Chairman, Atomic Energy Commission".

Par. (22). Pub. L. 93-438 added par. (22).

1972—Par. (1). Pub. L. 92-596 substituted "Deputy Secretaries of Defense (2)" for "Deputy Secretary of Defense".

Par. (2). Pub. L. 92-352 substituted "Deputy Secretary of State" for "Under Secretary of State".

Par. (6). Pub. L. 92-302 added par. (6), "Deputy Secretary of the Treasury." A prior par. (6), "Administrator of the Housing and Home Finance Agency," was repealed by Pub. L. 90-83, § 1(13), Sept. 11, 1967, 81 Stat. 198.

Par. (21). Pub. L. 92-255 added par. (21).

1971—Par. (20). Pub. L. 91-644 added par. (20), position of Deputy Attorney General being formerly level III under former section 5314(1) of this title.

1968—Par. (19). Pub. L. 90-407 added par. (19), Director of the National Science Foundation.

1966—Pub. L. 89-670 substituted "Under Secretary of Transportation" for "Administrator of the Federal Aviation Agency" in item (7) and added item (19), Administrator, Federal Aviation Administration.

Effective Date of 1976 Amendment

Section 5 of Pub. L. 94-561 provided that:

"(a) Except as otherwise provided in this section, this Act [enacting sections 5313(23) and 5316(137) of this title [position of Administrator, Animal and Plant Health Inspection Service, Department of Agriculture] and section 2212b of Title 7, amending section 5315(11) of this title and sections 2210 and 2211 of Title 7 and section 714g(a) of Title 15, deleting section 5314(3) of this title and enacting provision set out as note under section 2210 of Title 7] shall take effect on its date of enactment [Oct. 19, 1976].

"(b) Subsection (b)(1) of section 3 of this Act [deleting par. (55) of section 5316 of this title] shall take effect upon appointment of a Presidential appointee to fill the successor position created by section 2 of this Act [section 2212b of Title 7]."

Effective Date of 1974 Amendment

Amendment of Pub. L. 93-438 effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, except that officers provided for in sections 5811 to 5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93-438, set out as a note under section 5801 of Title 42.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-302 effective May 18, 1972, see section 3 of Pub. L. 92-302, set out as a note under section 1004 of Title 31, Money and Finance.

Effective Date of 1968 Amendment

Section 15(a)(4) of Pub. L. 90-407 provided that: "The amendments made by this subsection [which amended this section and sections 5314 and 5316 of this title] (and the amendments made by sections 3 and 4 of this Act [which amended section 1864 and enacted section 1864a of Title 42] insofar as they relate to rates of basic pay) shall take effect on the first day of the first calendar month which begins on or after the date of the enactment of this Act [July 18, 1968]."

Effective Date of 1966 Amendment

Amendment by Pub. L. 89-670 effective April 1, 1967, see section 15(a) of Pub. L. 89-670, and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of Title 49, Transportation.

Transfer of Functions

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to this title. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget.

The office of Director of the Office of Science and Technology was abolished and all functions vested by law in such office were transferred to the Director of the National Science Foundation by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix of this title.

Pay Increase; Effective Date

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92-302, not eligible to an increase on basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92-302, set out as a note under section 1004 of Title 31, Money and Finance.

Section Referred to in Other Sections

This section is referred to in section 8704 of this title; title 15 section 763; title 22 sections 866, 2847; title 23 section 303; title 42 sections 210, 1864, 4346, 6612.

§ 5314. Positions at level III

Level III of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Solicitor General of the United States.

[(2) Repealed. Pub. L. 91-375, § 6(c)(13)(A), Aug. 12, 1970, 84 Stat. 776.]

[(3) Repealed. Pub. L. 94-561, § 1(b), Oct. 19, 1976, 90 Stat. 2643.]

(4) Under Secretary of Commerce.

[(5) Repealed. Pub. L. 89-670, § 10(e), Oct. 15, 1966, 80 Stat. 948.]

(6) Under Secretary of Health, Education, and Welfare.

(7) Under Secretary of the Interior.

(8) Under Secretary of Labor.

(9) Under Secretary of State for Political Affairs and Under Secretary of State for Economic Affairs and an Under Secretary of State for Coordinating Security Assistance Programs.

(10) Under Secretary of the Treasury (or Counselor).

(11) Under Secretary of the Treasury for Monetary Affairs.

(12) Administrator of General Services.

(13) Administrator of the Small Business Administration.

(14) Deputy Administrator of Veterans' Affairs.

(15) Deputy Administrator, Agency for International Development.

(16) Chairman, Civil Aeronautics Board.

(17) Chairman of the United States Civil Service Commission.

(18) Chairman, Federal Communications Commission.

(19) Chairman, Board of Directors, Federal Deposit Insurance Corporation.

(20) Chairman of the Federal Home Loan Bank Board.

(21) Chairman, Federal Power Commission.

(22) Chairman, Federal Trade Commission.

(23) Chairman, Interstate Commerce Commission.

(24) Chairman, National Labor Relations Board.

(25) Chairman, Securities and Exchange Commission.

(26) Chairman, Board of Directors of the Tennessee Valley Authority.

(27) Chairman, National Mediation Board.

(28) Chairman, Railroad Retirement Board.

(29) Chairman, Federal Maritime Commission.

(30) Comptroller of the Currency.

(31) Commissioner of Internal Revenue.

(32) Director of Defense Research and Engineering, Department of Defense.

(33) Deputy Administrator of the National Aeronautics and Space Administration.

(34) Deputy Director of the Bureau of the Budget.

(35) Deputy Director of Central Intelligence.

(36) Director of the Office of Emergency Planning.

(37) Director of the Peace Corps.

[(38) Repealed. Pub. L. 94-123, § 2(c)(1), Oct. 22, 1975, 89 Stat. 670.]

(39) Deputy Director, National Science Foundation.

[(40) Repealed. Pub. L. 90-83, § 1(14)(A), Sept. 11, 1967, 81 Stat. 198.]

(41) President of the Export-Import Bank of Washington.

(42) Members, Nuclear Regulatory Commission.

(43) Members, Board of Governors of the Federal Reserve System.

(44) Director of the Federal Bureau of Investigation, Department of Justice.

(45) Administrator, Federal Highway Administration.

(46) Administrator, Federal Railroad Administration.

(47) Chairman, National Transportation Safety Board.

(48) Chairman of the National Endowment for the Arts the incumbent of which also serves as Chairman of the National Council on the Arts.

(49) Chairman of the National Endowment for the Humanities.

(50) Director of the Federal Mediation and Conciliation Service.

(51) Under Secretary of Housing and Urban Development.

(52) Urban Mass Transportation Administrator.

(53) President, Overseas Private Investment Corporation.

(54) Chairman, Postal Rate Commission.

(55) Administrator of Law Enforcement Assistance.

(56) Chairman, Occupational Safety and Health Review Commission.

(57) Governor of the Farm Credit Administration.

(58) Chairman, Equal Employment Opportunity Commission.

(59) Chairman, Consumer Product Safety Commission.

(60) Deputy Administrator, Energy Research and Development Administration.

(61) Chairman, Commodity Futures Trading Commission.

(62) Deputy Special Representatives for Trade Negotiations (2).

(63) Chairman, United States International Trade Commission.

(64) Director of the Office of Drug Abuse Policy.

(65) Administrator, National Oceanic and Atmospheric Administration.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 460; Pub. L. 89-670, § 10(d)(3), (e), Oct. 15, 1966, 80 Stat. 948; Pub. L. 90-83, § 1(14), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90-206, title II, § 215(a), Dec. 16, 1967, 81 Stat. 638; Pub. L. 90-351, title I, § 505, June 19, 1968, 82 Stat. 205, as amended by Pub. L. 91-644, title I, § 7(1), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 90-407, § 15(a)(2), July 18, 1968, 82 Stat. 367; Pub. L. 90-623, § 1(26), Oct. 22, 1968, 82 Stat. 1314; Pub. L. 91-175, pt. V, § 503(1), Dec. 30, 1969, 83 Stat. 826; Pub. L. 91-375, § 6(c)(13), Aug. 12, 1970, 84 Stat. 776; Pub. L. 91-596, § 12(c)(1), Dec. 29, 1970, 84 Stat. 1604; Pub. L. 91-644, title I, §§ 7(1), 8(a), Jan. 2, 1971, 84 Stat. 1887, 1888; Pub. L. 92-181, title V, § 5.27(a), Dec. 10, 1971, 85 Stat. 625; Pub. L. 92-226, pt. IV, § 403, Feb. 7, 1972, 86 Stat. 34; Pub. L. 92-261, § 9(a), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92-302, § 2(b), May 18, 1972, 86 Stat. 149; Pub. L. 92-352, title I, § 104(2), July 13, 1972, 86 Stat. 490; Pub. L. 92-573, § 4(h)(1), Oct. 27, 1972, 86 Stat. 1211; Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93-438, title III, § 310(2), Oct. 11, 1974, 88 Stat. 1252; Pub. L. 93-463, title I, § 102(a), Oct. 23, 1974, 88 Stat. 1391; Pub. L. 93-618, title I, §§ 141(b)(3)(B), 172(c)(1), Jan. 3, 1975, 88 Stat. 1999, 2010; Pub. L. 94-82, title II, § 202(b)(3), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94-123, § 2(c)(1), Oct. 22, 1975, 89 Stat. 670; Pub. L. 94-183, § 2(17), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 92-255, title II, § 209(a), as added Pub. L. 94-237, § 4(b), Mar. 19, 1976, 90 Stat. 243; Pub. L. 94-461, § 4(a), Oct. 8, 1976, 90 Stat. 1969; Pub. L. 94-561, § 1(b), Oct. 19, 1976, 90 Stat. 2463.)

1977 INCREASES IN SALARIES

Salaries of positions at Level III increased to $52,500 per annum, upon recommendation of the President of the United States,

see note set out under section 358 of Title 2, The Congress.

1976 Increases in Salaries

Salaries of positions at Level III increased to $44,000 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1976, see Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 5332 of this title. Ex. Ord. No. 11941, further provided that pursuant to the Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1976, which was $42,000.

1975 Increases in Salaries

Salaries of positions at Level III increased to $42,000 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1975, by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091.

1969 Increases in Salaries

Salaries of positions at Level III increased from $29,500 to $40,000 per annum, commencing on the first day of the pay period which begins after February 14, 1969, upon recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)-(44)	5 U.S.C. 2211(c) (less (39) and (46)).	Aug. 14, 1964, Pub. L. 88-426, § 303(c) less (39) and (46)), 78 Stat. 416.
(45)	5 U.S.C. 2211(b) (15) (proviso).	Aug. 14, 1964, Pub. L. 88-426, § 303(b) (15) (proviso), 78 Stat. 416.

The provisos in paragraphs (39) and (46) of former section 2211(c) are carried into section 5315. The remainders of paragraphs (39) and (46) are omitted but not repealed, see table III. The parts of paragraphs (39) and (46) that are omitted but not repealed provide that the positions of Director of Selective Service and Associate Director of the Federal Bureau of Investigation shall be in Level III so long as the positions are held by the incumbents of the positions on August 14, 1964. The omission of these provisions from title 5, without repealing the corresponding provisions of the source statute, in effect, leaves existing statute unchanged insofar as it relates to the present incumbents of the positions of Director of Selective Service and Associate Director of the Federal Bureau of Investigation.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5314(49)	20: 954(d) (2d sentence).	Sept. 29, 1965, Pub. L. 89-209, § 5(d) (1) (2d sentence), 79 Stat. 847.
5314(50)	20:956(b)(1) (2d sentence).	Sept. 29, 1965, Pub. L. 89-209, § 7(b)(1) (2d sentence), 79 Stat. 850.
5314(51)	5 App.: 2211(c)(47).	July 18, 1966, Pub. L. 89-504, § 408(a), 80 Stat. 299.
5314(52)	42:3533(a) (as applicable to compensation of Under Secretary.	Sept. 9, 1965, Pub. L. 89-174, § 4(a) (as applicable to compensation of Under Secretary), 79 Stat. 668.

The deletion of paragraph (41) of 5 U.S.C. 5314 reflects the abolition of the position of "Deputy Administrator of the Housing and Home Finance Agency" by the act of September 9, 1965, Public Law 89-174, sections 5(a), 9(c), 79 Stat. 669, 671.

In paragraph (49), the words "In lieu of receiving compensation at the rate prescribed by section 785(c) of this title" are omitted since the provisions of 20 U.S.C. 785(c) relating to compensation are repealed by this bill; also see table II. The wording further reflects the first sentence of 20 U.S.C. 954(d), and conforms to 5 U.S.C. 5314 which applies to positions rather than individuals.

Amendments

1976—Par. (3). Pub. L. 94-561 repealed par. (3) which related to the Under Secretary of Agriculture.

Par. (64). Pub. L. 94-237 added par. (64), relating to the Director of the Office of Drug Abuse Policy.

Par. (65). Pub. L. 94-461 added par. (65).

1975—Pub. L. 94-82 substituted provisions applying level III of the Executive Schedule to positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level III to positions for which the annual rate of basic pay is $29,500.

Par. (38). Pub. L. 94-123 repealed par. (38) which related to the Chief Medical Director in the Department of Medicine and Surgery, Veterans' Administration.

Par. (54). Pub. L. 94-183 redesignated par. (55), Chairman, Postal Rate Commission, as par. (54).

Pars. (56), (57). Pub. L. 94-183 redesignated par. (57), Chairman, Occupational Safety and Health Review Commission, and par. (58), Governor of the Farm Credit Administration, as pars. (56) and (57), respectively.

Par. (60). Pub. L. 93-618, § 141(b)(3)(B), added par. (60), Deputy Special Representative for Trade Negotiations. For renumbering by Pub. L. 94-183, see item relating to par. (62) hereunder.

Par. (61). Pub. L. 94-183 redesignated par. (60), Chairman, Commodity Futures Trading Commission, as par. (61).

Pub. L. 93-618, § 172(c)(1), added par. (61). For renumbering by Pub. L. 94-183, see item relating to par. (63) hereunder.

Pars. (62), (63). Pub. L. 94-183 redesignated par. (60), Deputy Special Representatives for Trade Negotiations, and par. (61), Chairman, United States International Trade Commission, as pars. (62) and (63), respectively.

1974—Par. (42). Pub. L. 93-438 substituted "Members, Nuclear Regulatory Commission" for "Members, Atomic Energy Commission".

Par. (60). Pub. L. 93-463 added par. (60), relating to Chairman, Commodity Futures Trading Commission.

Pub. L. 93-438 added par. (60), relating to Deputy Administrator, Energy Research and Development Administration.

1973—Par. (55). Pub. L. 93-83 reenacted par. (55), Administrator of Law Enforcement Assistance.

1972—Par. (9). Pub. L. 92-352 substituted "and" for "or", following "Political Affairs".

Pub. L. 92-226 included position of an Under Secretary of State for Coordinating Security Assistance Programs.

Par. (10). Pub. L. 92-302 substituted "Under Secretary of the Treasury (or Counselor)" for "Under Secretary of the Treasury".

Par. (58). Pub. L. 92-261 added par. (58), relating to Chairman, Equal Employment Opportunity Commission.

Par. (59). Pub. L. 92-573 added par. (59).

1971—Par. (1). Pub. L. 91-644, § 8(a), renumbered former par. (2) as (1) and struck out former par. (1) "Deputy Attorney General", now a level II position under section 5313(20) of this title.

Pars. (2)-(54). Pub. L. 91-644, § 8(a), renumbered former pars. (2) through (54) as (1) through (53), respectively.

Par. (55). Pub. L. 91-644, § 7(1), in amending section 505 of Pub. L. 90-351, renumbered par. (90) "Administrator of Law Enforcement Assistance" of section 5315 of this title as par. (55) of this section.

Par. (58). Pub. L. 92-181 added par. (58) relating to the Governor of the Farm Credit Administration.

1970—Par. (3). Pub. L. 91-375, § 6(c)(13)(A), struck out provisions for inclusion of position of Deputy Postmaster General in Level III of the Executive Schedule.

Par. (55). Pub. L. 91-375, § 6(c)(13)(B), added par. (55), relating to Chairman, Postal Rate Commission.

Par. (57). Pub. L. 91-596 inserted par. (57).

1969—Par. (54). Pub. L. 91-175 added par. (54).

1968—Par. (40). Pub. L. 90-407 substituted "Deputy Director, National Science Foundation" for "Director of the National Science Foundation".

Par. (53). Pub. L. 90-623 added par. (53).

1967—Pub. L. 90-206 increased the annual rate of basic pay from $28,500 to $29,500.

1966—Pub. L. 89-670 added items (46) to (48) and repealed item (6) which provided for the Under Secretary of Commerce for Transportation, subject to the provisions of section 1657 of Title 49, Transportation.

Change of Name

"Export-Import Bank of Washington", referred to in par. (41), was changed to "Export-Import Bank of the United States" in the Export-Import Bank Act of 1945, section 635 et seq. of Title 12, Banks and Banking, as provided for in section 1(a) of Pub. L. 90-267, Mar. 13, 1968, 82 Stat. 47.

Effective Date of 1975 Amendment

Amendment by Pub. L. 94-123 effective on Oct. 12, 1975, see section 6(a)(1) of Pub. L. 94-123, set out as a note under section 4118 of Title 38, Veterans' Benefits.

Effective Date of 1974 Amendments

Amendment by Pub. L. 93-463 effective Oct. 23, 1974, see section 418 of Pub. L. 93-463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93-438 effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, except that officers provided for in sections 5811 to 5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93-438, set out as a note under section 5801 of Title 42.

Effective Date of 1973 Amendment

Offices and salaries modified under amendment of this section by Pub. L. 93-83 prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93-83, set out as a note under section 3701 of Title 42, The Public Health and Welfare.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-302 effective May 18, 1972, see section 3 of Pub. L. 92-302, set out as a note under section 1004 of Title 31, Money and Finance.

Effective Date of 1970 Amendment

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

Effective Date of 1968 Amendments

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

Amendment by Pub. L. 90-407 effective on the first day of the first calendar month which begins on or after July 18, 1968, see section 15 (a)(4) of Pub. L. 90-407, set out as a note under section 5313 of this title.

Effective Date of 1967 Amendment

Amendment by Pub. L. 90-206 effective at the beginning of the first pay period which begins on or after Dec. 16, 1967, see section 220(a) (3) of Pub. L. 90-206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

Effective Date of 1966 Amendment

Amendment by Pub. L. 89-670 effective Apr. 1, 1967 as prescribed by the President and published in the Federal Register, see section 15(a) of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of Title 49, Transportation.

Transfer of Functions

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to this title. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget.

The Office of Emergency Preparedness, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

Director of the Federal Bureau of Investigation

The position of the Director of the Federal Bureau of Investigation, referred to in par. (44), was placed temporarily in Level II during the incumbency of the incumbent on August 14, 1964, by Pub. L. 88-426, Aug. 14, 1964, § 303(b) (15), 78 Stat. 416.

Section 1101 of the Omnibus Crime Control and Safe Streets Act of 1968 (Pub. L. 90-351, June 19, 1968, 82 Stat. 236), which is set out as a note under section 532 of Title 28, Judiciary and Judicial Procedure, provided in part that when the present incumbent of the position of Director leaves office, his successors will be paid at the rate prescribed for Level II.

Pay Increase; Effective Date

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92-302, not eligible to an increase in basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92-302, set out as a note under section 1004 of Title 31, Money and Finance.

Section Referred to in Other Sections

This section is referred to in title 2 sections 60a-1, 282b, 474, 601; title 15 sections 205i, 763; title 22 section 866; title 38 section 4107; title 42 sections 1864a, 5041, 5871, 5872, 6612; title 50 app. section 2169.

Section Referred to in D.C. Code

This section is referred to in sections 1-161, 9-146 of the District of Columbia Code.

§ 5315. Positions at level IV

Level IV of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Administrator, Bureau of Security and Consular Affairs, Department of State.

[(2) Repealed. Pub. L. 89-670, § 10(e), Oct. 15, 1966, 80 Stat. 948.]

(3) Deputy Administrator of General Services.

(4) Associate Administrator of the National Aeronautics and Space Administration.

(5) Assistant Administrators, Agency for International Development (6).

(6) Regional Assistant Administrators, Agency for International Development (4).

(7) Under Secretary of the Air Force.

(8) Under Secretary of the Army.

(9) Under Secretary of the Navy.

(10) Deputy Under Secretary of State.

(11) Assistant Secretaries of Agriculture (5).

(12) Assistant Secretaries of Commerce (6).[1]

(13) Assistant Secretaries of Defense (9).

(14) Assistant Secretaries of the Air Force (4).

(15) Assistant Secretaries of the Army (5).

(16) Assistant Secretaries of the Navy (4).

(17) Assistant Secretaries of Health, Education, and Welfare (5).

(18) Assistant Secretaries of the Interior (6).

(19) Assistant Attorneys General (9).

(20) Assistant Secretaries of Labor (5).

[(21) Repealed. Pub. L. 91-375, § 6(c)(14)(A), Aug. 12, 1970, 84 Stat. 776.]

(22) Assistant Secretaries of State (11).

(23) Assistant Secretaries of the Treasury (5).

(24) Members, United States International Trade Commission.

[(25)-(28) Repealed. Pub. L. 90-183, § 1(15)(E), Sept. 11, 1967, 81 Stat. 198.]

(29) Director of Civil Defense, Department of the Army.

[(30) Repealed. Pub. L. 90-83, § 1(15)(E), Sept. 11, 1967, 81 Stat. 198.]

[(31) Repealed. Pub. L. 94-123, § 2(c)(2), Oct. 22, 1975, 89 Stat. 670.]

(32) Deputy Director of the Office of Emergency Planning.

(33) Deputy Director of the Office of Science and Technology.

(34) Deputy Director of the Peace Corps.

(35) Deputy Director of the United States Arms Control and Disarmament Agency.

(36) Deputy Director of the United States Information Agency.

(37) Assistant Directors of the Bureau of the Budget (3).

(38) General Counsel of the Department of Agriculture.

(39) General Counsel of the Department of Commerce.

(40) General Counsel of the Department of Defense.

(41) General Counsel of the Department of Health, Education, and Welfare.

(42) Solicitor of the Department of the Interior.

(43) Solicitor of the Department of Labor.

(44) General Counsel of the National Labor Relations Board.

[(45) Repealed. Pub. L. 91-375, § 6(c)(14)(A), Aug. 12, 1970, 84 Stat. 776.]

(46) Counselor of the Department of State.

(47) Legal Adviser of the Department of State.

(48) General Counsel of the Department of the Treasury.

(49) First Vice President of the Export-Import Bank of Washington.

[(50) Repealed. Pub. L. 93-438, title III, § 310 (3), Oct. 11, 1974, 88 Stat. 1253.]

[(51) Repealed. Pub. L. 92-181, title V, § 5.27(a), Dec. 10, 1971, 85 Stat. 625.]

(52) Inspector General, Foreign Assistance.

(53) Deputy Inspector General, Foreign Assistance.

(54) Members, Civil Aeronautics Board.

(55) Members, Council of Economic Advisers.

(56) Members, Board of Directors of the Export-Import Bank of Washington.

(57) Members, Federal Communications Commission.

(58) Member, Board of Directors of the Federal Deposit Insurance Corporation.

(59) Members, Federal Home Loan Bank Board.

(60) Members, Federal Power Commission.

(61) Members, Federal Trade Commission.

(62) Members, Interstate Commerce Commission.

(63) Members, National Labor Relations Board.

(64) Members, Securities and Exchange Commission.

(65) Members, Board of Directors of the Tennessee Valley Authority.

(66) Members, United States Civil Service Commission.

(67) Members, Federal Maritime Commission.

(68) Members, National Mediation Board.

(69) Members, Railroad Retirement Board.

(70) Director of Selective Service.

(71) Associate Director of the Federal Bureau of Investigation, Department of Justice.

(72) Members, Equal Employment Opportunity Commission (4).

(73) Chief of Protocol, Department of State.

(74) Director, Bureau of Intelligence and Research, Department of State.

(75) Director, Community Relations Service.

(76) United States Attorney for the District of Columbia.

(77) United States Attorney for the Southern District of New York.

(78) Members, National Transportation Safety Board.

(79) General Counsel, Department of Transportation.

(80) Deputy Administrator, Federal Aviation Administration.

(81) Assistant Secretaries of Transportation (4).

(82) Director of Public Roads.

(83) Administrator of the St. Lawrence Seaway Development Corporation.

(84) Assistant Secretary for Science, Smithsonian Institution.

(85) Assistant Secretary for History and Art, Smithsonian Institution.

(86) Deputy Administrator of the Small Business Administration.

(87) Assistant Secretaries of Housing and Urban Development (8).

(88) General Counsel of the Department of Housing and Urban Development.

---

[1] Probably should be 7 Assistant Secretaries. See 1970 Amendment notes hereunder.

(89) Commissioner of Interama.

(90) Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration.

(91) Federal Insurance Administrator, Department of Housing and Urban Development.

(92) Executive Vice President, Overseas Private Investment Corporation.

(93) Administrator of the National Credit Union Administration.

(94) Members, Postal Rate Commission (4).

(95) Members, Occupational Safety and Health Review Commission.

(96) Deputy Director of the Office of Drug Abuse Policy.

(97) Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury) (2).

(98) Members, Consumer Product Safety Commission (4).

(99) Commissioner of Social Security, Department of Health, Education, and Welfare.

(100) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State.

(101) Administrator for Federal Procurement Policy.

(102) Assistant Administrators, Energy Research and Development Administration (6).

(103) Members, Commodity Futures Trading Commission.

(104) Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission.

(105) Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission.

(106) Director of Nuclear Regulatory Research, Nuclear Regulatory Commission.

(107) Executive Director for Operations, Nuclear Regulatory Commission.

(108) President, Government National Mortgage Association, Department of Housing and Urban Development.

(109) Deputy Administrator, National Oceanic and Atmospheric Administration.

(109) Commissioner of Immigration and Naturalization, Department of Justice.

(110) Associate Administrator, National Oceanic and Atmospheric Administration.

(110) United States Attorney for the Northern District of Illinois.

(111) United States Attorney for the Central District of California.

(112) Director, Bureau of Prisons, Department of Justice.

(113) Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 461; Pub. L. 89-670, § 10(d)(4), (e), Oct. 15, 1966, 80 Stat. 948; Pub. L. 89-734, § (1), Nov. 2, 1966, 80 Stat. 1163; Pub. L. 89-779, § 8(c)(1), Nov. 6, 1966, 80 Stat. 1364; Pub. L. 90-83, § 1(15), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90-206, title II, § 215(b), Dec. 16, 1967, 81 Stat. 638; Pub. L. 90-351, title I, § 505, June 19, 1968, 82 Stat. 205; Pub. L. 90-448, title XI, § 1105(b), title XVII, § 1708(b), Aug. 1, 1968, 82 Stat. 567, 606; Pub. L. 90-623, § 1(4), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 91-121, title IV, § 404(b), Nov. 19, 1969, 83 Stat. 207; Pub. L. 91-175, pt. V, § 503(2), Dec. 30, 1969, 83 Stat. 826; Pub. L. 91-206, § 5(b), Mar. 10, 1970, 84 Stat. 51; Pub. L. 91-375, § 6(c)(14), Aug. 12, 1970, 84 Stat. 776; Pub. L. 91-469, § 42(b), Oct. 21, 1970, 84 Stat. 1038; Pub. L. 91-477, § 3(b), Oct. 21, 1970, 84 Stat. 1072; Pub. L. 91-596, §§ 12(c)(2), 29(b), Dec. 29, 1970, 84 Stat. 1604, 1619; Pub. L. 91-611, title II, § 211(b), Dec. 31, 1970, 84 Stat. 1829; Pub. L. 91-644, title I, § 7 (1), (2), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 92-22, § 2, June 1, 1971, 85 Stat. 76; Pub. L. 92-181, title V, § 5.27(a), Dec. 10, 1971, 85 Stat. 625; Pub. L. 92-215, § 2, Dec. 22, 1971, 85 Stat. 777; Pub. L. 92-255, title II, § 212(b), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92-261, § 9(b), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92-302, § 2(c), May 18, 1972, 86 Stat. 149; Pub. L. 92-352, title I, § 104(3), July 13, 1972, 86 Stat. 490; Pub. L. 92-419, title VI, § 604(b), Aug. 30, 1972, 86 Stat. 676; Pub. L. 92-573, § 4(h)(2), Oct. 27, 1972, 86 Stat. 1211; Pub. L. 92-603, title IV, § 404(b), Oct. 30, 1972, 86 Stat. 1488; Pub. L. 90-351, title I, § 506(a), as added Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93-126, § 9(b), as added Pub. L. 93-312, § 9, June 8, 1974, 88 Stat. 238; Pub. L. 93-383, title VIII, § 818(c), Aug. 22, 1974, 88 Stat. 740; Pub. L. 93-400, § 13, Aug. 30, 1974, 88 Stat. 799; Pub. L. 93-438, title III, § 310(3), Oct. 11, 1974, 88 Stat. 1253; Pub. L. 93-463, title I, § 102(b), Oct. 23, 1974, 88 Stat. 1391; Pub. L. 93-618, title I, § 172(c)(2), Jan. 3, 1975, 88 Stat. 2010; Pub. L. 94-82, title II, § 202(b)(4), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94-123, § 2(c)(2), Oct. 22, 1975, 89 Stat. 670; Pub. L. 94-183, § 2(18), Dec. 31, 1975, 89 Stat. 1057; Pub. L. 92-255, title II, § 209(b), as added Pub. L. 94-237, § 4(b), Mar. 19, 1976, 90 Stat. 243; Pub. L. 94-375, § 17(c), Aug. 3, 1976, 90 Stat. 1077; Pub. L. 94-461, § 4(b), Oct. 8, 1976, 90 Stat. 1969; Pub. L. 94-503, title II, § 202(b), Oct. 15, 1976, 90 Stat. 2426; Pub. L. 94-561, § 3(a), Oct. 19, 1976, 90 Stat. 2643.)

1977 INCREASES IN SALARIES

Salaries of positions at Level IV increased to $50,000 per annum, upon recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1976 INCREASES IN SALARIES

Salaries of positions at Level IV increased to $41,800 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1976, see Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 5332 of this title. Ex. Ord. No. 11941, further provided that pursuant to the Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1976, which was $39,900.

1975 INCREASES IN SALARIES

Salaries of positions at Level IV increased to $39,900 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1975, by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091.

1969 INCREASES IN SALARIES

Salaries of positions at Level IV increased from $28,750 to $38,000 per annum, commencing on the first day of the pay period *which begins after February 14, 1969, upon recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.*

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)-(69)	5 U.S.C. 2211(d).	Aug. 14, 1964, Pub. L. 88-426, § 303(d), 78 Stat. 417.
(70), (71)	5 U.S.C. 2211(c) (39) (proviso), (46) (proviso).	Aug. 14, 1964, Pub. L. 88-426, § 303(c) (39) (proviso), (46) (proviso), 78 Stat. 417.
(72)-(77)	5 U.S.C. 2211(g).	Aug. 14, 1964, Pub. L. 88-426, § 303(g), 78 Stat. 422.

Paragraphs (72)-(77) are added on authority of former section 2211(g) which authorized the President to place, from Aug. 15, 1964, to Feb. 1, 1965, not more than 30 positions in Levels IV and V of the Federal Executive Salary Schedule. Pursuant to this authority, the President by Executive Order No. 11189, Nov. 23, 1964, as amended by Executive Order No. 11195, Jan. 30, 1965, placed the positions listed in paragraphs (72)-(77) in Level IV.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5315(12)	5 App.: 2211 (d) (12).	Aug. 26, 1965, Pub. L. 89-136, § 601(b), 79 Stat. 569.
5315(17)	5 App.: 2211(d)(17).	Aug. 9, 1965, Pub. L. 89-115, § 4(c) (words before semicolon), 79 Stat. 449. Oct. 2, 1965, Pub. L. 89-234, § 1(b) (last sentence), 79 Stat. 903.
	[Uncodified]	1966 Reorg. Plan No. 2, § 5(a), eff. May 10, 1966, 80 Stat. 1609.
5315(18)	[Uncodified]	1966 Reorg. Plan No. 2, § 2 (last 20 words), eff. May 10, 1966, 80 Stat. 1609.
5315(21)	5 App.: 2211(d) (21).	July 5, 1966, Pub. L. 89-492, § 3, 80 Stat. 262.
5315(30)	5 App.: 2211(4)(30).	July 18, 1966, Pub. L. 89-504, § 408(b), 80 Stat. 299.
5315(87), (88)	42: 3533(a) (as applicable to compensation of four Assistant Secretaries and General Counsel).	Sept. 9, 1965, Pub. L. 89-174, § 4(a) (as applicable to compensation of four Assistant Secretaries and General Counsel), 79 Stat. 668.
5315(89)	22: 2083(a) (1st sentence, less 1st 20 words).	Feb. 19, 1966, Pub. L. 89-355, § 3(a) (1st sentence, less 1st 20 words), 80 Stat. 6.

The deletion of paragraphs (25)-(28) of 5 U.S.C. 5315 reflects the abolition of the positions of "Commissioner, Community Facilities Administration", "Commissioner, Federal Housing Administration", "Commissioner, Public Housing Administration", and "Commissioner, Urban Renewal Administration" by the act of September 9, 1965, Public Law 89-174, sections 5(a), 9(c), 79 Stat. 669, 671.

The redesignation of paragraphs (78) and (79), added by Public Law 89-734, and of paragraph (78), added by Public Law 89-779, as paragraphs "(84)", "(85)", and "(86)", respectively, reflects the addition of paragraphs (78)-(83) by section 10(d)(4) of Public Law 89-670.

CODIFICATION

Amendment by Pub. L. 94-237 to par. (95) of this section has been editorially made to par. (96) of this section in view of redesignation of par. (95) as (96) by Pub. L. 94-183 as the probable intent of Congress.

AMENDMENTS

1976—Par. (11). Pub. L. 94-561 increased the number of Assistant Secretaries from 4 to 5.

Par. (96). Pub. L. 94-237 substituted "Deputy Director of the Office of Drug Abuse Policy" for "Deputy Director of the Special Action Office for Drug Abuse Prevention".

Par. (108). Pub. L. 94-375 added par. (108).

Par. (109). Pub. L. 94-461 added par. (109) relating to the Deputy Administrator, National Oceanic and Atmospheric Administration.

Pub. L. 94-503 added par. (109) relating to Commissioner of Immigration and Naturalization.

Par. (110). Pub. L. 94-461 added par. (110) relating to the Associate Administrator, National Oceanic and Atmospheric Administration.

Pub. L. 94-503 added par. (110) relating to United States Attorney for the Northern District of Illinois.

Pars. (111)-(113). Pub. L. 94-503 added pars. (111) to (113).

1975—Pub. L. 94-82 substituted provisions applying level IV of the Executive Schedule to positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level IV to positions for which the annual rate of basic pay is $28,750.

Par. (24). Pub. L. 93-618 substituted "Members, United States International Trade Commission" for "Chairman of the United States Tariff Commission".

Par. (31). Pub. L. 94-123 repealed par. (31) which related to the Deputy Chief Medical Director in the Department of Medicine and Surgery, Veterans' Administration.

Pars. (93)-(107). Pub. L. 94-183 redesignated par. (92) Administrator of the National Credit Union Administration, par. (93) Members, Postal Rate Commission, par. (94) Members, Occupational Safety and Health Review Commission, par. (95) Deputy Director of the Special Action Office for Drug Abuse Prevention, par. (96) Deputy Under Secretaries of the Treasury (or Assistant Secretaries of the Treasury), par. (97) Members, Consumer Product Safety Commission, par. (97) Commissioner of Social Security, Department of Health, Education, and Welfare, par. (99) Assistant Secretary for Oceans and International Environmental and Scientific Affairs, Department of State, par. (100) Administrator for Federal Procurement Policy, par. (100) Assistant Administrators, Energy Research and Development Administration, par. (100) Members, Commodity Futures Trading Commission, par. (101) Director of Nuclear Reactor Regulation, Nuclear Regulatory Commission, par. (102) Director of Nuclear Material Safety and Safeguards, Nuclear Regulatory Commission, par. (103) Director of Nuclear Regulatory Research, Nuclear Regulatory Commission, par. (104) Executive Director for Operations, Nuclear Regulatory Commission, as pars. (93)-(107), respectively.

1974—Par. (50). Pub. L. 93-438 struck out par. (50) "General Manager of the Atomic Energy Commission".

Par. (87). Pub. L. 93-383 increased number of Assistant Secretaries from 6 to 8.

Par. (99). Pub. L. 93-126, § 9(b), as added by Pub. L. 93-312, added par. (99).

Par. (100). Pub. L. 93-463 added par. (100), relating to Members, Commodity Futures Trading Commission.

Pub. L. 93-438 added par. (100), relating to Assistant Administrators, Energy Research and Development Administration.

Pub. L. 93-400 added par. (100), relating to Administrator for Federal Procurement Policy.

Pars. (101) to (104). Pub. L. 93-438 added pars. (101) to (104).

1973—Par. (90). Pub. L. 93-83 substituted "Deputy Administrator for Policy Development of the Law Enforcement Assistance Administration" for "Associate Administrator of Law Enforcement Assistance (2)".

1972—Par. (10). Pub. L. 92-352 substituted "Secretary of State" for "Secretaries of State (2)".

Par. (11). Pub. L. 92-419 increased from three to four the number of authorized Assistant Secretaries of Agriculture.

Par. (23). Pub. L. 92-302, § 2(c)(1), increased the number of Assistant Secretaries of the Treasury from 4 to 5.

Par. (72). Pub. L. 92-261 substituted "Members, Equal Employment Opportunity Commission (4)" for "Chairman, Equal Employment Opportunity Commission".

Par. (95). Pub. L. 92-255 added par. (95).

Par. (96). Pub. L. 92-302, § 2(c)(2), added par. (96).

Par. (97). Pub. L. 92-603 added par. (97), relating to Commissioner of Social Security, Department of Health, Education, and Welfare.

Pub. L. 92-573 added par. (97) relating to Members, Consumer Product Safety Commission (4).

1971—Par. (13). Pub. L. 92-215 increased the number of Assistant Secretaries of Defense from 8 to 9.

Par. (18). Pub. L. 92-22 increased from five to six the number of authorized Assistant Secretaries of the Interior.

Par. (51). Pub. L. 92-181 struck out provision for the Governor of the Farm Credit Administration.

Par. (90). Pub. L. 91-644, § 7(1), (2), in amending section 505 of Pub. L. 90-351, struck out former par. (90) "Administrator of Law Enforcement Assistance", renumbered as par. (55) of section 5314 of this title, and renumbered par. (126) "Associate Administrator of Law Enforcement Assistance (2)" of section 5316 of this title as par. (90) of this section, respectively.

1970—Par. (12). Pub. L. 91-477 increased from 5 to 6 the number of authorized Assistant Secretaries of Commerce. Pub. L. 91-469 also increased from five to six the number of authorized Assistant Secretaries of Commerce. The correct figure in par. (12) presumably should be seven.

Par. (15). Pub. L. 91-611 increased the number of Assistant Secretaries of the Army from 4 to 5.

Par. (20). Pub. L. 91-596, § 29(b), increased from 4 to 5 the number of Assistant Secretaries of Labor.

Pars. (21), (45). Pub. L. 91-375, § 6(c)(14)(A), struck out provisions for inclusion in Level IV of the Executive Schedule positions of Assistant Postmasters General (6) and General Counsel of the Post Office Department, respectively.

Par. (92). Pub. L. 91-206 added par. (92) relating to Administrator of the National Credit Union Administration.

Par. (93). Pub. L. 91-375, § 6(c)(14)(B), added par. (93).

Par. (94). Pub. L. 91-596, § 12(c)(2), inserted par. (94).

1969—Par. (13). Pub. L. 91-121 increased the number of Assistant Secretaries of Defense from 7 to 8.

Par. (92). Pub. L. 91-175 added par. (92), relating to Executive Vice President, Overseas Private Investment Corporation.

1968—Pars. (14) to (16). Pub. L. 90-623 increased from 3 to 4 the number of authorized Assistant Secretaries of Air Force, Army, and Navy respectively.

Par. (87). Pub. L. 90-448, § 1708(b), substituted "(6)" for "(4)" in par. (87).

Par. (90). Pub. L. 90-351 added par. (90).

Par. (91). Pub. L. 90-448, § 1105(b), added par. (91).

1967—Pub. L. 90-206 increased the annual rate of basic pay from $27,000 to $28,750.

1966—Pub. L. 89-779 added par. (78) relating to Deputy Administrator of the Small Business Administration.

Pub. L. 89-734 added par. (78), relating to Assistant Secretary for Science, Smithsonian Institution, and par. (79), relating to Assistant Secretary for History and Art, Smithsonian Institution.

Pub. L. 89-670 added par. (78), relating to Members, National Transportation Safety Board, par. (79), relating to General Counsel, Department of Transportation, and pars. (80) to (83), and repealed par. (2) which provided for the Deputy Administrator of the Federal Aviation Agency, subject to the provisions of section 1657 of Title 49.

CHANGE OF NAME

"Export-Import Bank of Washington", referred to in pars. (49) and (56), was changed to "Export-Import Bank of the United States" in the Export-Import Bank Act of 1945, section 635 et seq. of Title 12, Banks and Banking, as provided for in section 1(a) of Pub. L. 90-267, Mar. 13, 1968, 82 Stat. 47, set out as a note under section 635 of Title 12, Banks and Banking.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-123 effective on Oct. 12, 1975, see section 6(a)(1) of Pub. L. 94-123, set out as a note under section 4118 of Title 38, Veterans' Benefits.

EFFECTIVE DATE OF 1974 AMENDMENTS

Amendment by Pub. L. 93-463 effective Oct. 23, 1974, see section 418 of Pub. L. 93-463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93-438 effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, except that officers provided for in sections 5811-5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93-438, set out as a note under section 5801 of Title 42.

EFFECTIVE DATE OF 1973 AMENDMENT

Offices and salaries modified under amendment of this section by Pub. L. 93-83 prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93-83, set out as a note under section 3701 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1972 AMENDMENTS

Section 404(c) of Pub. L. 92-603 provided that: "The amendments made by the preceding provisions of this section [amending this section and section 5316 of this title] shall take effect on the first day of the first pay period of the Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after the first day of the month which follows the month in which this Act is enacted [Oct. 30, 1972]."

Amendment by Pub. L. 92-302 effective May 18, 1972, see section 3 of Pub. L. 92-302, set out as a note under section 1004 of Title 31, Money and Finance.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective at the beginning of the first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90-206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by the President and published in the Federal Register, see section 15(a) of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of Title 49, Transportation.

TRANSFER OF FUNCTIONS

The Office of Emergency Preparedness, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions, vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

The office of Deputy Director of the Office of Science and Technology was abolished and all functions vested by law in such office were transferred to the Director of the National Science Foundation by sections 2 and 3(a)(5) of 1973 Reorg. Plan No. 1, effective July 1, 1973, set out in the Appendix to this title.

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to this title. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget.

ASSOCIATE DIRECTOR OF THE FEDERAL BUREAU OF INVESTIGATION

The position of Associate Director of the Federal Bureau of Investigation was placed temporarily in Level III during the incumbency of the incumbent on August 14, 1964, by Pub. L. 88-426, Aug. 14, 1964, § 303(c)(46), 78 Stat. 417.

PAY INCREASE; EFFECTIVE DATE

Persons occupying a position under the Executive Schedule on May 18, 1972, and later appointed to a position created or authorized by Pub. L. 92-302, not eligible to an increase in basic pay until Jan. 21, 1973, see section 3(c) of Pub. L. 92-302, set out as a note under section 1004 of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5317 of this title; title 2 sections 285e, 286e, 437c, 474, 601; title 15 sections 763, 790b, 2204; title 20 section 1221b; title 22 sections 290f, 866, 867; title 23 section 303; title 28 section 548; title 30 section 1121; title 31 section 52b; title 38 section 4107; title 42 sections 1975b, 3525, 4346, 5041, 5553, 5871, 5872.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 1-162 of the District of Columbia Code.

§ 5316. Positions at level V

Level V of the Executive Schedule applies to the following positions, for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title:

(1) Administrator, Agricultural Marketing Service, Department of Agriculture.

(2) Administrator, Agricultural Research Service, Department of Agriculture.

(3) Administrator, Agricultural Stabilization and Conservation Service, Department of Agriculture.

(4) Administrator, Farmers Home Administration.

(5) Administrator, Foreign Agricultural Service, Department of Agriculture.

(6) Administrator, Rural Electrification Administration, Department of Agriculture.

(7) Administrator, Soil Conservation Service, Department of Agriculture.

(8) Administrator, Bonneville Power Administration, Department of the Interior.

(9) Administrator of the National Capital Transportation Agency.

[(10) Repealed. Pub. L. 89-670, § 10(e), Oct. 15, 1966, 80 Stat. 948.]

(11) Associate Administrators of the Small Business Administration (3).

[(12)-(14) Repealed. Pub. L. 89-670, § 10(e), Oct. 15, 1966, 80 Stat. 948.]

(15) Associate Administrators, National Aeronautics and Space Administration (7).

[(16), (17) Repealed. Pub. L. 93-74, § 8, July 23, 1973, 87 Stat. 175.]

(18) Associate Deputy Administrator, National Aeronautics and Space Administration.

(19) Deputy Associate Administrator, National Aeronautics and Space Administration.

(20) Associate Deputy Administrator of Veterans' Affairs.

(21) Archivist of the United States.

[(22) Repealed. Pub. L. 90-83, § 1(16)(A), Sept. 11, 1967, 81 Stat. 198.]

(23) Assistant Secretary of Agriculture for Administration.

(24) Assistant Secretary of Health, Education, and Welfare for Administration.

[(25) Repealed. Pub. L. 92-22, § 3, June 1, 1971, 85 Stat. 76.]

(26) Assistant Attorney General for Administration.

(27) Assistant Secretary of Labor for Administration.

[(28) Repealed. Pub. L. 92-302, § 2(d), May 18, 1972, 86 Stat. 149.]

[(29) Repealed. Pub. L. 93-438, title III, § 310(4), Oct. 11, 1974, 88 Stat. 1253.]

(30) Assistant and Science Adviser to the Secretary of the Interior.

(31) Chairman, Foreign Claims Settlement Commission of the United States.

(32) Chairman of the Military Liaison Committee to the Atomic Energy Commission, Department of Defense.

(33) Chairman of the Renegotiation Board.

(34) Chairman of the Subversive Activities Control Board.

(35) Chief Counsel for the Internal Revenue Service, Department of the Treasury.

(36) Chief Forester of the Forest Service, Department of Agriculture.

[(37) Repealed. Pub. L. 91-375, § 6(c)(15), Aug. 12, 1970, 84 Stat. 776.]

[(38) Repealed. Pub. L. 90-83, § 1(16)(A), Sept. 11, 1967, 81 Stat. 198.]

(39) Commissioner of Customs, Department of the Treasury.

(40) Commissioner, Federal Supply Service, General Services Administration.

(41) Commissioner of Education, Department of Health, Education, and Welfare.

(42) Director, United States Fish and Wildlife Service, Department of the Interior.

(43) Commissioner of Food and Drugs, Department of Health, Education, and Welfare.

[(44) Repealed. Pub. L. 94-503, title II, § 202(c)(1), Oct. 15, 1976, 90 Stat. 2427.]

(45) Commissioner of Indian Affairs, Department of the Interior.

[(46) Repealed. Pub. L. 90-9, § 6, Apr. 10, 1967, 81 Stat. 12.]

(47) Commissioners, Indian Claims Commission (5).

(48) Commissioner of Patents, Department of Commerce.

(49) Commissioner, Public Buildings Service, General Services Administration.

(50) Commissioner of Reclamation, Department of the Interior.

[(51) Repealed. Pub. L. 92-603, title IV, § 404(a), Oct. 30, 1972, 86 Stat. 1488.]

(52) Commissioner of Vocational Rehabilitation, Department of Health, Education, and Welfare.

(53) Commissioner of Welfare, Department of Health, Education, and Welfare.

(54) Director, Advanced Research Projects Agency, Department of Defense.

[(55) Repealed. Pub. L. 94-561, § 3(b)(1), Oct. 19, 1976, 90 Stat. 2643.]

(56) Director, Bureau of the Census, Department of Commerce.

(57) Director, Bureau of Mines, Department of the Interior.

[(58) Repealed. Pub. L. 94-503, title II, § 202(c)(4), Oct. 15, 1976, 90 Stat. 2427.]

(59) Director, Geological Survey, Department of the Interior.

[(60) Repealed. Pub. L. 91-375, § 6(c)(15), Aug. 12, 1970, 84 Stat. 776.]

(61) Director, National Bureau of Standards, Department of Commerce.

[(62) Repealed. Pub. L. 93-438, title III, § 310(4), Oct. 11, 1974, 88 Stat. 1253.]

(63) Director of Science and Education, Department of Agriculture.

[(64) Repealed. Pub. L. 92-302, § 2(d), May 18, 1972, 86 Stat. 149.]

(65) Deputy Commissioner of Internal Revenue, Department of the Treasury.

(66) Assistant Directors, National Science Foundation (4).

(67) Deputy Director, Policy and Plans, United States Information Agency.

(68) Deputy General Counsel, Department of Defense.

[(69) Repealed. Pub. L. 93-438, title III, § 310(4), Oct. 11, 1974, 88 Stat. 1253.]

(70) Associate Director of the Federal Mediation and Conciliation Service.

(71) Associate Director for Volunteers, Peace Corps.

(72) Associate Director for Program Development and Operations, Peace Corps.

(73) Assistants to the Director of the Federal Bureau of Investigation, Department of Justice (2).

(74) Assistant Directors, Office of Emergency Planning (3).

(75) Assistant Directors, United States Arms Control and Disarmament Agency (4).

[(76) Repealed. Pub. L. 89-670, § 10(e), Oct. 15, 1966, 80 Stat. 948.]

(77) Fiscal Assistant Secretary of the Treasury.

(78) General Counsel of the Agency for International Development.

(79) General Counsel of the Department of the Air Force.

(80) General Counsel of the Department of the Army.

(81) General Counsel of the Nuclear Regulatory Commission.

[(82) Repealed. Pub. L. 89-670, § 10(e), Oct. 15, 1966, 80 Stat. 948.]

[(83) Repealed. Pub. L. 90-83, § 1(16)(A), Sept. 11, 1967, 81 Stat. 198.]

[(84) General Counsel of the Department of the Navy.]

(85) General Counsel of the United States Arms Control and Disarmament Agency.

(86) General Counsel of the National Aeronautics and Space Administration.

(87) Governor of the Canal Zone.

(88) Manpower Administrator, Department of Labor.

(89) Maritime Administrator, Department of Commerce.

(90) Members, Foreign Claims Settlement Commission of the United States.

(91) Members, Renegotiation Board.

(92) Members, Subversive Activities Control Board.

[(93) Repealed. Pub. L. 93-618, title I, § 172(c)(3), Jan. 3, 1975, 88 Stat. 2010.]

[(94), (95) Repealed. Pub. L. 90-83, § 1(16)(A), Sept. 11, 1967, 81 Stat. 198.]

(96) Deputy Directors of Defense Research and Engineering, Department of Defense (4).

(97) Assistant Administrator of General Services.

(98) Director, United States Travel Service, Department of Commerce.

(99) Executive Director of the United States Civil Service Commission.

(100) Administrator, Wage and Hour and Public Contracts Division, Department of Labor.

(101) Assistant Director (Program Planning, Analysis and Research), Office of Economic Opportunity.

[(102) Repealed. Pub. L. 93-438, title III, § 310(4), Oct. 11, 1974, 88 Stat. 1253.]

(103) Associate Director (Policy and Plans), United States Information Agency.

(104) Chief Benefits Director, Veterans' Administration.

(105) Commissioner of Labor Statistics, Department of Labor.

(106) Deputy Director, National Security Agency.

(107) Director, Bureau of Land Management, Department of the Interior.

(108) Director, National Park Service, Department of the Interior.

[(109) Repealed. Pub. L. 93-126, § 9(c), as added Pub. L. 93-312, § 9, June 8, 1974, 88 Stat. 238.]

(110) General Counsel of the Veterans' Administration.

[(111) Repealed. Pub. L. 92-261, § 9(c), Mar. 24, 1972, 86 Stat. 110.]

(112) National Export Expansion Coordinator, Department of Commerce.

(113) Special Assistant to the Secretary of Defense.

(114) Staff Director, Commission on Civil Rights.

[(115), (116) Repealed. Pub. L. 94-503, title II, § 202(c)(2), (3), Oct. 15, 1976, 90 Stat. 2427.]

(117) Assistant Secretary for Administration, Department of Transportation.

(118) Director, United States National Museum, Smithsonian Institution.

(119) Director, Smithsonian Astrophysical Observatory, Smithsonian Institution.

(120) Administrator for Economic Development.

(121) Administrator of the Environmental Science Services Administration.

[(122) Repealed. Pub. L. 93-383, title VIII, § 818(b), Aug. 22, 1974, 88 Stat. 740.]

[(123) Repealed. Pub. L. 91-375, § 6(c)(15), Aug. 12, 1970, 84 Stat. 776.]

(124) Director, National Highway Safety Bureau.

(125) Director, National Traffic Safety Bureau.

[(126) Repealed. Pub. L. 90-351, title I, § 506, June 19, 1968, 82 Stat. 205, as amended Pub. L. 91-644, title I, § 7(2), Jan. 2, 1971, 84 Stat. 1887.]

(127) Director, Bureau of Narcotics and Dangerous Drugs, Department of Justice.

(128) Auditor-General of the Agency for International Development.

(129) Vice Presidents, Overseas Private Investment Corporation (3).

(130) Deputy Administrator, Urban Mass Transportation Administration, Department of Transportation.

[(131) Repealed. Pub. L. 94-237, § 4(c)(6), Mar. 19, 1976, 90 Stat. 244.]

(132) General Counsel of the Equal Employment Opportunity Commission.

(133) Director, National Cemetery System, Veterans' Administration.

[(134) Repealed. Pub. L. 94-503, title II, § 202(c)(5), Oct. 15, 1976, 90 Stat. 2427.]

(135) Executive Director, Advisory Council on Historic Preservation.

(136) Additional officers, Energy Research and Development Administration (8).

(137) General Counsel, Commodity Futures Trading Commission.

(137) Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.

(137) Administrator, Federal Grain Inspection Service, Department of Agriculture.

(138) Additional officers, Nuclear Regulatory Commission (5).

(139) Executive Director, Commodity Futures Trading Commission.

(140) Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 463; Pub. L. 89-670, § 10(d)(5), (e), Oct. 15, 1966, 80 Stat. 948; Pub. L. 89-734, § 1(2), Nov. 2, 1966, 80 Stat. 1163; Pub. L. 89-779, § 8(c)(2), Nov. 6, 1966, 80 Stat. 1364; Pub. L. 90-9, § 6, Apr. 10, 1967, 81 Stat. 12; Pub. L. 90-83, § 1(16), Sept. 11, 1967, 81 Stat. 198; Pub. L. 90-206, title II, § 215(c), Dec. 16, 1967, 81 Stat. 638; Pub. L. 90-351, title I, § 506, June 19, 1968, 82 Stat. 205; Pub. L. 90-407, § 15(a)(3), July 18, 1968, 82 Stat. 367; Pub. L. 90-623, § 1(4), (5), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 91-175, pt. V, § 503(3), Dec. 30, 1969, 83 Stat. 826; Pub. L. 91-375, § 6(c)(15), Aug. 12, 1970, 84 Stat. 776; Pub. L. 91-453, § 12, Oct. 15, 1970, 84 Stat. 968; Pub. L. 91-644, title I, § 7(2), Jan. 2, 1971, 84 Stat. 1887; Pub. L. 92-22, § 3, June 1, 1971, 85 Stat. 76; Pub. L. 92-255, title II, § 212(c), Mar. 21, 1972, 86 Stat. 69; Pub. L. 92-261, § 9(c), (d), Mar. 24, 1972, 86 Stat. 110; Pub. L. 92-302, § 2(d), May 18, 1972, 86 Stat. 149; Pub. L. 92-603, title IV, § 404(a), Oct. 30, 1972, 86 Stat. 1488; Pub. L. 93-43, § 2(c), June 18, 1973, 87 Stat. 78; Pub. L. 93-74, § 8, July 23, 1973, 87 Stat. 175; Pub. L. 90-351, title I, § 506(b), as added Pub. L. 93-83, § 2, Aug. 6, 1973, 87 Stat. 211; Pub. L. 93-271, § 2, Apr. 22, 1974, 88 Stat. 92; Pub. L. 93-126, § 9(c), as added Pub. L. 93-312, § 9, June 8, 1974, 88 Stat. 238; Pub. L. 93-383, title VIII, § 818(b), Aug. 22, 1974, 88 Stat. 740; Pub. L. 93-438, title III, § 310(4), Oct. 11, 1974, 88 Stat. 1253; Pub. L. 93-463, title I, § 102(c), Oct. 23, 1974, 88 Stat. 1392; Pub. L. 93-618, title I, § 172(c)(3), Jan. 3, 1975, 88 Stat. 2010; Pub. L. 94-82, title II, § 202(b)(5), Aug. 9, 1975, 89 Stat. 420; Pub. L. 94-183, § 2(19), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 94-237, § 4(c)(6), Mar. 19, 1976, 90 Stat. 244; Pub. L. 94-307, § 7, June 4, 1976, 90 Stat. 681; Pub. L. 94-370, § 15(b), July 26, 1976, 90 Stat. 1032; Pub. L. 94-422, title II, § 202, Sept. 28, 1976, 90 Stat. 1323; Pub. L. 94-503, title II, § 202(c), Oct. 15, 1976, 90 Stat. 2427; Pub. L. 94-561, § 3(b), Oct. 19, 1976, 90 Stat. 2643; Pub. L. 94-582, § 26, Oct. 21, 1976, 90 Stat. 2889.)

1977 INCREASES IN SALARIES

Salaries of positions at Level V increased to $47,500 per annum, upon recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

1976 INCREASES IN SALARIES

Salaries of positions at Level V increased to $39,600 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1976, see Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under section 5332 of this title. Ex Ord. No. 11941, further provided that pursuant to the Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds the rate in effect on Sept. 30, 1976, which was $37,800.

1975 INCREASES IN SALARIES

Salaries of positions at Level V increased to $37,800 per annum, effective on the first day of the first pay period beginning on or after Oct. 1, 1975, by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091.

1969 INCREASES IN SALARIES

Salaries of positions at Level V increased from $28,000 to $36,000 per annum, commencing on the first day of the pay period which begins after February 14, 1969, upon recommendation of the President of the United States, see note set out under section 358 of Title 2, The Congress.

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)-(99)	5 U.S.C. 2211(e)	Aug. 14, 1964, Pub. L. 88-426, § 303(e), 78 Stat. 419.
(100)-(116)	5 U.S.C. 2211(g).	Aug. 14, 1964, Pub. L. 88-426, § 303(g), 78 Stat. 422.

Paragraphs (100)-(116) are added on authority of former section 2211(g) which authorized the President to place, from Aug. 15, 1964, to Feb. 1, 1965, not more than 30 positions in Levels IV and V of the Federal Executive Salary Schedule. Pursuant to this authority, the President by Executive Order No. 11189, Nov. 23, 1964, as amended by Executive Order No. 11195, Jan. 30, 1965, placed the positions listed in paragraphs (100)-(116) in Level V.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5316(60)	5 App.: 2211(e)(60).	July 5, 1966, Pub. L. 89-492, § 4(1), 80 Stat. 262.
5316(94)	5 App.: 2211(e)(94).	Sept. 9, 1965, Pub. L. 89-174, § 5(b) (as appli-cable to § 303(e)(94) of the Federal Executive Salary Act of 1964), 79 Stat. 669.
5316(95)	5 App.: 2211(e)(95)	Aug. 9, 1965, Pub. L. 89-115, § 4(c) (words after semicolon), 79 Stat. 449.
5316(120)	5 App.: 2211(e)(100)	Aug. 26, 1965, Pub. L. 89-136, § 601(c), 79 Stat. 570.
5316(121)	[Uncodified]	1965 Reorg. Plan No. 2, § 4(a) (2d sentence, less 1st 18 words), eff. July 13, 1965, 79 Stat. 1318.
5316(122)	42:3533(b) (last 29 words).	Sept. 9, 1965, Pub. L. 89-174, § 4(b) (last 29 words), 79 Stat. 668.
5316(123)	5 App.: 2211(e)(101)	July 5, 1966, Pub. L. 89-492, § 4(2), 80 Stat. 262.
5316(124)	49: 1652(f)(2) (last 15 words in 2d sentence).	Oct. 15, 1966, Pub. L. 89-670, § 3(f)(2) (last 15 words in 2d sentence), 80 Stat. 932.
5316(125)	49: 1652(f)(1) (last 15 words in 2d sentence).	Oct. 15, 1966, Pub. L. 89-670, § 3(f)(1) (last 15 words in 2d sentence), 80 Stat. 932.

The deletion of paragraphs (22), (38), and (83) of 5 U.S.C. 5316 reflects (1) the termination, effective June 30, 1965, of the position of "Area Redevelopment Administrator, Department of Commerce" pursuant to Public Law 87-27 (sec. 29, 75 Stat. 63; 42 U.S.C. 2525); (2) the abolition of the position of "Chief, Weather Bureau, Department of Commerce" by 1965 Reorganization Plan No. 2 (sec. 2(a), 79 Stat. 1318); and (3) the abolition of the position of "General Counsel of the Housing and Home Finance Agency" by Public Law 89-174 (sec. 5(a), 9(c), 79 Stat. 669, 671).

The redesignation of paragraphs (117) and (118) as paragraphs "(118)" and "(119)", respectively, eliminates duplicate paragraph numbering effected by section 10(d) (5) of Public Law 89-670 and section 1(2) of Public Law 89-734.

AMENDMENTS

1976—Par. (15). Pub. L. 94-307 increased the number of Associate Administrators, National Aeronautics and Space Administration, from 6 to 7.

Par. (44). Pub. L. 94-503 repealed par. (44). Commissioner of Immigration and Naturalization, Department of Justice.

Par. (55). Pub. L. 94-561, § 3(b)(1), repealed par. (55), Director of Agricultural Economics, Department of Agriculture.

Par. (58). Pub. L. 94-503 repealed par. (58). Director, Bureau of Prisons, Department of Justice.

Pars. (115), (116). Pub. L. 94-503 repealed pars. (115) United States Attorney for the Northern District of Illinois, and (116) United States Attorney for the Southern District of California.

Par. (131). Pub. L. 94-237 struck out par. (131) "Assistant Directors, Special Action Office for Drug Abuse Prevention (6)".

Par. (134). Pub. L. 94-503 repealed par. (134). Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

Par. (135). Pub. L. 94-422 added par. (135) relating to Executive Director, Advisory Council on Historic Preservation.

Par. (137). Pub. L. 94-582 added par. "(137) Administrator, Federal Grain Inspection Service, Department of Agriculture."

Pub. L. 94-561 added par. (137) relating to Administrator, Animal and Plant Health Inspection Service, Department of Agriculture.

Par. (140). Pub. L. 94-370 added par. (140) relating to Associate Administrator for Coastal Zone Management, National Oceanic and Atmospheric Administration.

1975—Pub. L. 94-82 substituted provisions applying level V of the Executive Schedule to positions for which the annual rate of basic pay shall be the rate determined with respect to such level under chapter 11 of title 2, as adjusted by section 5318 of this title, for provisions applying such level V to positions for which the annual rate of basic pay is $28,000.

Par. (93). Pub. L. 93-613 struck out par. (93) "Members, United States Tariff Commission."

Pars. (134)-(139). Pub. L. 94-183 redesignated par. (133), Deputy Administrator for Administration of the Law Enforcement Assistance Administration, par. (134), General Counsel, Energy Research and Development Administration, par. (135), Additional officers, Energy Research and Development Administration (8), par. (135), General Counsel, Commodity Futures Trading Commission, par. (136), Additional officers, Nuclear Regulatory Commission (5), and par. (136), Executive Director, Commodity Futures Trading Commission, as pars. (134)-(139), respectively.

1974—Par. (29). Pub. L. 93-438 struck out par. (29) "Assistant General Manager, Atomic Energy Commission".

Par. (42). Pub. L. 93-271, § 2, substituted "Director, United States Fish and Wildlife" for "Commissioner of Fish and Wildlife".

Par. (62). Pub. L. 93-438 struck out par. (62) "Director of Regulation, Atomic Energy Commission". See section 5315(101) of this title.

Par. (69). Pub. L. 93-438 struck out par. (69) "Deputy General Manager, Atomic Energy Commission".

Par. (81). Pub. L. 93-438 substituted "General Counsel of the Nuclear Regulatory Commission" for "General Counsel of the Atomic Energy Commission".

Par. (102). Pub. L. 93-438 struck out par. (102) "Assistant General Managers, Atomic Energy Commission (2)".

Par. (109). Pub. L. 93-126, § 9(c), as added by Pub. L. 93-312, repealed par. (109), which related to the Director of International Scientific Affairs, Department of State.

Par. (122). Pub. L. 93-383 struck out par. (122) which provided for an Assistant Secretary of Housing and Urban Development for Administration.

Par. (134). Pub. L. 93-438 added par. (134).

Pars. (135), (136), Pub. L. 93-463 added pars. (135) and (136) relating, respectively, to General Counsel, Commodity Futures Trading Commission, and Executive Director, Commodity Futures Trading Commission.

Pub. L. 93-438 added pars. (135) and (136) relating, respectively, to additional officers, Nuclear Regulatory Commission, and additional officers, Energy Research and Development Administration.

1973—Pars. (15) to (17). Pub. L. 93-74 added par. (15), Associate Administrators, National Aeronautics and Space Administration (6), and repealed provisions of former pars. (15) for an Associate Administrator for Advanced Research and Technology, (16) for Associate Administrator for Space Science and Applications, and (17) for Associate Administrator for Manned Space Flight, National Aeronautics and Space Administration.

Pars. (131) to (133). Pub. L. 93-43 redesignated former par. "(131) General Counsel of the Equal Employment Opportunity Commission" as par. (132), and added par. (133), relating to Director, National Cemetery System.

Par. (133). Pub. L. 93-83 added par. (133), relating to Deputy Administrator for Administration of the Law Enforcement Assistance Administration.

1972—Pars. (28), (64). Pub. L. 92-302 struck out pars. (28) and (64) which provided, respectively, for an Assistant Secretary of the Treasury for Administration and a Deputy Under Secretary for Monetary Affairs, Department of the Treasury.

Par. (51). Pub. L. 92-603 struck out par. (51) "Commissioner of Social Security, Department of Health, Education, and Welfare". See section 5315 of this title.

Par. (111). Pub. L. 92-261, § 9(c), struck out par. (111) "Members, Equal Employment Opportunity Commission (4)", renumbered as par. (72) of section 5315 of this title.

Par. (131). Pub. L. 92-261, § 9(d) added par. (131), relating to General Counsel of the Equal Employment Opportunity Commission.

Pub. L. 92-255 added par. (131), relating to Assistant Directors, Special Action Office for Drug Abuse Prevention.

1971—Par. (25). Pub. L. 92-22 struck out position of Assistant Secretary of the Interior for Administration, now covered by section 1453a of Title 43 and section 5315 (18) of this title.

Par. (126). Pub. L. 91-644 struck out par. (126) "Associate Administrator of Law Enforcement Assistance (2)", renumbered as par. (90) of section 5315 of this title.

1970—Pars. (37), (60), (123). Pub. L. 91-375 struck out provisions for inclusion in Level V of the Executive Schedule Post Office Department positions of Chief Postal Inspector; Director, Research and Development; and Director, Construction Engineering, respectively.

Par. (130). Pub. L. 91-453 added par. (130).

1969—Pars. (128), (129). Pub. L. 91-175 added pars. (128) and (129).

1968—Par. (66). Pub. L. 90-407 substituted "Assistant Directors, National Science Foundation (4)" for "Deputy Director, National Science Foundation".

Par. (126). Pub. L. 90-623, § 1(4), increased from 1 to 2 the number of Associate Administrators of Law Enforcement Assistance.

Par. (126). Pub. L. 90-351 added par. (126).

Par. (127). Pub. L. 90-623, § 1(5), added par. (127).

1967—Pub. L. 90-206 increased the annual rate of basic pay from $26,000 to $28,000.

Par. (46). Pub. L. 90-9 struck out position of Chief Commissioner, Indian Claims Commission. See par. (47) of this section.

Par. (47). Pub. L. 90-9 substituted "Commissioners, Indian Claims Commission (5)" for "Associate Commissioners, Indian Claims Commission (2)".

1966—Pub. L. 89-779 substituted "Associate Administrators of the Small Business Administration (3)" for "Deputy Administrators of the Small Business Administration (4)" in par. (11).

Pub. L. 89-734 added par. (117), relating to Director, United States National Museum, Smithsonian Institution, and par. (118).

Pub. L. 89-670 added par. (117), relating to Assistant Secretary for Administration, Department of Transportation, and repealed pars. (10) Administrator of the Saint Lawrence Seaway Development Corporation, (12) Associate Administrator for Administration, Federal Aviation Agency, (13) Associate Administrator for Development, Federal Aviation Agency, (14) Associate Administrator for Programs, Federal Aviation Agency, (76) Federal Highway Administrator, Department of Commerce, and (82) General Counsel of the Federal Aviation Agency, subject to the provisions of section 1657 of Title 49, Transportation.

Change of Name

Commissioner of Patents, referred to in par. (48), was redesignated the Commissioner of Patents and Trademarks by Pub. L. 93-596, § 3, Jan. 2, 1975, 88 Stat. 1949, set out as a note under section 1 of Title 35, Patents.

Effective Date of 1974 Amendments

Amendment by Pub. L. 93-463 effective Oct. 23, 1974, see section 418 of Pub. L. 93-463, set out as a note under section 2 of Title 7, Agriculture.

Amendment by Pub. L. 93-438 effective 120 days after Oct. 11, 1974, or on such earlier date as the President may prescribe and publish in the Federal Register, except that officers provided for in sections 5811-5820 of Title 42, The Public Health and Welfare, may be nominated and appointed at any time after Oct. 11, 1974, see section 312(a) of Pub. L. 93-438, set out as a note under section 5801 of Title 42.

Amendment by Pub. L. 93-271 effective July 1, 1974, see section 3 of Pub. L. 93-271, set out as a note under section 742b of Title 16, Conservation.

Effective Date of 1973 Amendments

Offices and salaries modified under amendment of this section by Pub. L. 93-83 prospectively only, effective on and after Aug. 6, 1973, see section 3 of Pub. L. 93-83, set out as a note under section 3701 of Title 42, The Public Health and Welfare.

Redesignation of former par. (131) as (132) and enactment of par. (133) effective June 18, 1973, see section 10(a) of Pub. L. 93-43, set out as a note under section 1000 of Title 38, Veterans' Benefits.

Effective Date of 1972 Amendments

Amendment by Pub. L. 92-603 effective on the first day of the first pay period of the Commissioner of Social Security, Department of Health, Education, and Welfare, which commences on or after the first day of the month which follows the month in which Pub. L. 92-603 was enacted, see section 404(c) of Pub. L. 92-603, set out as a note under section 5315 of this title.

Amendment by Pub. L. 92-302, abolishing offices of Assistant Secretary of the Treasury for Administration and Deputy Under Secretary for Monetary Affairs, Department of the Treasury, effective upon confirmation by the Senate of Presidential appointees to fill the successor positions created by Pub. L. 92-302, see, section 3(b) of Pub. L. 92-302, set out as a note under section 1004 of Title 31, Money and Finance.

Effective Date of 1971 Amendment

Repeal of par. (25) by Pub. L. 92-22 effective upon Senate confirmation of Presidential appointment under section 1453a of Title 43 and section 5315(18) of this title, see note set out under section 1453a of Title 43, Public Lands.

Effective Date of 1970 Amendment

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

Effective Date of 1968 Amendments

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct.

22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

Amendment by Pub. L. 90-407 effective on the first day of the first calendar month which begins on or after July 18, 1968, see section 15 (a)(4) of Pub. L. 90-407, set out as a note under section 5313 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective as of the beginning of the first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90-206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by the President and published in the Federal Register, see section 15(a) of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of Title 49, Transportation.

TRANSFER OF FUNCTIONS

The Office of Emergency Preparedness, including the offices of Director, Deputy Director, Assistant Directors, and Regional Directors, was abolished and all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness were transferred to the President of the United States by sections 1 and 3(a)(1) of 1973 Reorg. Plan No. 1, set out in the Appendix to this title.

Pub. L. 93-644, § 9(a), Jan. 4, 1975, 88 Stat. 2310, amended the Economic Opportunity Act of 1964 to create the Community Services Administration as the successor authority to the Office of Economic Opportunity, referred to in par. (101). For all references to the Office of Economic Opportunity or to the Director of the Office of Economic Opportunity in statutes, reorganization plans, executive orders, regulations, or other official documents or proceedings to be deemed, on or after Jan. 4, 1975, to refer to the Community Services Administration, or to the Director thereof, see section 2941 of Title 42, The Public Health and Welfare.

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created in the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service] the Coast and Geodetic Survey [now the National Ocean Survey] the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

The Bureau of Narcotics and Dangerous Drugs, including the office of the Director thereof, in the Department of Justice was abolished by 1973 Reorg. Plan No. 2, eff. July 1, 1973, 38 FR 15932, 87 Stat. 1091, set out in the Appendix to this title, 1973 Reorg. Plan No. 2 also created in the Department of Justice an agency to be known as the Drug Enforcement Administration, with an Administrator and Deputy Administrator appointed by the President with the advice and consent of the Senate.

DIRECTOR, BUREAU OF DOMESTIC COMMERCE

Compensation for Director, Bureau of Domestic Commerce, Department of Commerce, fixed at rate prescribed for level V of Executive Schedule, see section 1 of Ex. Ord. No. 11567, Nov. 16, 1970, 35 F.R. 17701, set out as a note under section 1511 of Title 15, Commerce and Trade.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5317 of this title; title 2 sections 60a-2, 166, 282b, 353, 437c; title 12 section 1723a; title 15 sections 763, 1511a, 2204; title 20 sections 964, 1221e; title 22 sections 866, 2872; title 23 section 303; title 26 section 6103; title 28 sections 332, 548, 603, 625; title 31 section 1154; title 38 section 4107; title 39 section 206; title 42 sections 1864a, 2996d, 3525, 4302, 5041, 5871, 5872; title 43 section 1616; title 44 section 3319.

§ 5317. Presidential authority to place positions at levels IV and V

In addition to the positions listed in sections 5315 and 5316 of this title, the President, from time to time, may place in levels IV and V of the Executive Schedule positions held by not to exceed 34 individuals when he considers that action necessary to reflect changes in organization, management responsibilities, or workload in an Executive agency. Such an action with respect to a position to which appointment is made by the President by and with the advice and consent of the Senate is effective only at the time of a new appointment to the position. Notice of each action taken under this section shall be published in the Federal Register, except when the President determines that the publication would be contrary to the interest of national security. The President may not take action under this section with respect to a position the pay for which is fixed at a specific rate by this subchapter or by statute enacted after August 14, 1964.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 89-670, § 10(d)(6), Oct. 15, 1966, 80 Stat. 948; Pub. L. 90-83, § 1(17), Sept. 11, 1967, 81 Stat. 199.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2211(f)	Aug. 14, 1964, Pub. L. 88-426, § 303(f), 78 Stat. 421.

The word "offices" is omitted as included in "positions". The term "Executive agency" is substituted for "Federal department or agency" in view of the definition in section 105. The words "after August 14, 1964" are substituted for "subsequent to the date of enactment of this Act".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

The amendment to 5 U.S.C. 5317 conforms to the style of title 5.

AMENDMENTS

1966—Pub. L. 89-670 increased from thirty to thirty-four the number of additional level IV and V positions authorized when necessary.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-670 effective Apr. 1, 1967, as prescribed by the President and publishd in the Federal Register, see section 15(a) of Pub. L. 89-670 and Ex. Ord. No. 11340, Mar. 30, 1967, 32 F.R. 5453, set out as notes under section 1651 of Title 49, Transportation.

Ex. Ord. No. 11861. Placement of Positions in Levels IV and V

Ex. Ord. 11861, May 21, 1975, 40 F.R. 22531, as amended by Ex. Ord. No. 11864, June 13, 1975, 40 F.R. 25579; Ex. Ord. No. 11872, July 21, 1975, 40 F.R. 30619; Ex. Ord. No. 11877, Sept. 2, 1975, 40 F.R. 40797; Ex. Ord. No. 11885, Oct. 15, 1975, 40 F.R. 48491; Ex. Ord. No. 11893, Dec. 31, 1975, 41 F.R. 1040; Ex. Ord. No. 11898, Jan. 14, 1976, 41 F.R. 2365; Ex. Ord. No. 11927, July 22, 1976, 41 F.R. 30583; Ex. Ord. No. 11976, Mar. 11, 1977, 42 F.R. 14081, provided:

By virtue of the authority vested in me by section 5317 of title 5 of the United States Code [this section], it is ordered as follows:

Section 1. The following offices and positions are placed in level IV of the Executive Schedule;

(1) Administrator, Social and Rehabilitation Service, Department of Health, Education, and Welfare.

(2) Administrator, Alcohol, Drug Abuse and Mental Health Administration, Department of Health, Education, and Welfare.

(3) Administrator, Health Services Administration, Department of Health, Education, and Welfare.

(4) Director, United States Secret Service, Department of the Treasury.

(5) Associate Directors, (4) Office of Management and Budget, Executive Office of the President.

(6) Director of Telecommunications and Command Control Systems, Department of Defense.

(7) Principal Deputy Director of Defense Research and Engineering, Department of Defense.

(8) Deputy Under Secretary for International Labor Affairs, Department of Labor.

(9) Deputy Under Secretary, Department of Transportation.

(10) Counselor to the Secretary for Congressional Affairs, Department of Commerce.

(11) Special Prosecutor, Department of Justice.

(12) Associate Attorney General, Department of Justice.

(13) Adviser to the Secretary (Counselor, Economic Policy Board), Department of the Treasury.

(14) Executive Vice President, Export-Import Bank.

(15) Deputy Under Secretary for Congressional and Public Affairs, Department of Agriculture.

(16) Chief Economist, Department of Commerce.

(17) Director of Agricultural Economics, Department of Agriculture.

(18) Assistant to the Secretary for Legislative Affairs, Department of Defense.

Sec. 2. The following offices and positions are placed in level V of the Executive Schedule:

[(1) Deleted.]

(2) Deputy Assistant Secretary of Defense for Reserve Affairs, Department of Defense.

(3) Assistant Secretary, Comptroller, Department of Health, Education, and Welfare.

(4) Deputy Commissioner of Social Security, Department of Health, Education, and Welfare.

(5) Commissioner on Aging, Department of Health, Education, and Welfare.

(6) Deputy Director, United States Secret Service, Department of the Treasury.

(7) Director, Office of Revenue Sharing, Department of the Treasury.

(8) Commissioner, Automated Data and Telecommunications Service, General Services Administration.

[(9) Deleted.]

(10) Principal Deputy Assistant Secretary (International Security Affairs), Department of Defense.

(11) Executive Director, Pension Benefit Guaranty Corporation, Department of Labor.

(12) Administrator for Pension and Welfare Benefits Department of Labor.

Sec. 3. Nothing in this order shall be deemed to terminate or otherwise affect the appointment, or to require the reappointment, of any occupant of any position listed in section 1 or section 2 of this order who was the occupant of that position immediately before the issuance of this order.

Sec. 4. Executive Order No. 11768 of February 20, 1974, as amended, is hereby superseded.

Gerald R. Ford.

Executive Order No. 11864

Ex. Ord. No. 11864, June 13, 1975, 40 F.R. 25579, formerly set out as a note under this section, which placed the position of Adviser to the Secretary (Counselor, Economic Policy Board), Department of the Treasury, to terminate effective August 1, 1975, in level IV of the Executive Schedule was superseded by Ex. Ord. No. 11877, Sept. 2, 1975, 40 F.R. 40797.

Section Referred to in Other Sections

This section is referred to in title 28 section 548.

§ 5318. Adjustments in rates of pay

Effective at the beginning of the first applicable pay period commencing on or after the first day of the month in which an adjustment takes effect under section 5305 of this title in the rates of pay under the General Schedule, the annual rate of pay for positions at each level of the Executive Schedule shall be adjusted by an amount, rounded to the nearest multiple of $100 (or if midway between multiples of $100, to the next higher multiple of $100), equal to the percentage of such annual rate of pay which corresponds to the overall average percentage (as set forth in the report transmitted to the Congress under such section 5305) of the adjustment in the rates of pay under the General Schedule.

(Added Pub. L. 94-82, title II, § 202(a), Aug. 9, 1975, 89 Stat. 419.)

Section Referred to in Other Sections

This section is referred to in sections 5312 to 5316 of this title.

SUBCHAPTER III—GENERAL SCHEDULE PAY RATES

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 3102, 3109, 3374, 4301, 5301, 5304, 5306, 5362, 5541, 5544, 5545, 7154 of this title; title 2 sections 60e-2, 60e-2a, 60e-2b, 60e-6, 162a, 166, 197, 293, 353, 356; title 4 section 142; title 7 sections 511m, 610, 1507, 1642, 1981; title 8 section 1103; title 10 sections 4540, 7212, 9540; title 12 sections 1701c, 2405; title 13 section 23; title 15 sections 78d, 78s, 79z-5, 80a-45, 80b-18, 205i, 278e, 327, 634d, 714g, 714h, 715h, 717q, 1023, 1942, 2451; title 16 sections 18c, 450jj-1, 470m, 590d, 793, 825i, 832i, 833h, 916*l*; title 18 section 4001; title 20 sections 74, 75f, 76dd, 80g, 241, 1089, 1102, 1145, 1221d, 1221e, 1417, 2106; title 22 sections 272a, 277d-3, 277d-19, 280b, 280i, 280k, 287e, 287r, 289b, 290b, 886, 928, 1044, 2024, 2083, 2454, 2581, 2873, 3008; title 25 sections 2a, 305a, 633, 640, 640d-11; title 26 sections 7471, 9010, 9040; title 28 sections 603, 625, 626; title 29 sections 172, 661, 676; title 30 sections 556, 664, 729; title 33 sections 984, 1325, 1374; title 38 sections 2003, 4107; title 40 sections 13b, 166b-1f, 166b-3, 174j-8, 609, 873; title 41 sections 46, 104; title 42 sections 246, 1563, 1731, 1855f, 1873, 1962a-4, 2000e-4, 2000g, 2201, 2471, 2473, 3525, 4276, 4372, 5149; title 43 sections 316n, 1399, 1616; title 45 sections 154, 362; title 47 section 154; title 49 section 1441; title 50 section 404; title 50 App. sections 460, 2169.

Subchapter Referred to in D.C. Code

This subchapter is referred to in sections 1-251, 1-518, 1-1105, 2-408, 2-1211, 2-1726, 2-1808, 2-2224, 2-2225, 2-2415, 5-426, 5-713, 6-1203, 8-209, 9-146, 11-1726, 11-2102, 25-104, 25-104a, 29-935, 29-1093, 31-

1301, 31-1402, 31-1603, 31-1622, 33-422, 35-401, 36-437, 40-603, 40-715, 40-809, 45-1634 of the District of Columbia Code.

§ 5331. Definitions; application

(a) For the purpose of this subchapter, "agency", "employee", "position", "class", and "grade" have the meanings given them by section 5102 of this title.

(b) This subchapter applies to employees and positions to which chapter 51 of this title applies.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 467.)

Historical and Revision Notes

The section is added on authority of former sections 1081, 1082, 1084, and 1091, which are carried into section 5102.

Cross References

Employment of reading assistants for blind employees without regard to the provisions of this subchapter, see section 3102 of this title.

Section Referred to in Other Sections

This section is referred to in title 10 sections 4540, 7212, 9540.

§ 5332. The General Schedule

(a) The General Schedule, the symbol for which is "GS", is the basic pay schedule for positions to which this subchapter applies. Each employee to whom this subchapter applies is entitled to basic pay in accordance with the General Schedule.

GENERAL SCHEDULE

Grade	Annual rates and steps									
	1	2	3	4	5	6	7	8	9	10
GS-1	$3,776	$3,902	$4,028	$4,154	$4,280	$4,406	$4,532	$4,658	$4,784	$4,910
GS-2	4,108	4,245	4,382	4,519	4,656	4,793	4,930	5,067	5,204	5,341
GS-3	4,466	4,615	4,764	4,913	5,062	5,211	5,360	5,509	5,658	5,807
GS-4	4,995	5,161	5,327	5,493	5,659	5,825	5,991	6,157	6,323	6,489
GS-5	5,565	5,751	5,937	6,123	6,309	6,495	6,681	6,867	7,053	7,239
GS-6	6,137	6,342	6,547	6,752	6,957	7,162	7,367	7,572	7,777	7,982
GS-7	6,734	6,959	7,184	7,409	7,634	7,859	8,084	8,309	8,534	8,759
GS-8	7,384	7,630	7,876	8,122	8,368	8,614	8,860	9,106	9,352	9,598
GS-9	8,054	8,323	8,592	8,861	9,130	9,399	9,668	9,937	10,206	10,475
GS-10	8,821	9,115	9,409	9,703	9,997	10,291	10,585	10,879	11,173	11,467
GS-11	9,657	9,979	10,301	10,623	10,945	11,267	11,589	11,911	12,233	12,555
GS-12	11,461	11,843	12,225	12,607	12,989	13,371	13,753	14,135	14,517	14,899
GS-13	13,507	13,957	14,407	14,857	15,307	15,757	16,207	16,657	17,107	17,557
GS-14	15,841	16,369	16,897	17,425	17,953	18,481	19,009	19,537	20,065	20,593
GS-15	18,404	19,017	19,630	20,243	20,856	21,469	22,082	22,695	23,308	23,921
GS-16	20,982	21,681	22,380	23,079	23,778	24,477	25,176	25,875	26,574	
GS-17	23,788	24,581	25,374	26,167	26,960					
GS-18	27,055									

(b) When payment is made on the basis of an hourly, daily, weekly, or biweekly rate, the rate is computed from the appropriate annual rate of basic pay named by subsection (a) of this section in accordance with the rules prescribed by section 5504(b) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 90-83, § 1(18), Sept. 11, 1967, 81 Stat. 199; Pub. L. 90-206, title II, § 202(a), Dec. 16, 1967, 81 Stat. 624.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 1113 (less (c)).	Oct. 28, 1949, ch. 782, § 603 (less (d)), 63 Stat. 965. Oct. 24, 1951, ch. 554, § 1(a), 65 Stat. 612. Sept. 1, 1954, ch. 1208, § 109 (less (c)), 68 Stat. 1108. June 28, 1955, ch. 189, § 2(a), 69 Stat. 172. June 20, 1958, Pub. L. 85-462, § 2(a), 72 Stat. 203. July 1, 1960, Pub. L. 86-568, § 112(a), 74 Stat. 298. Oct. 11, 1962, Pub. L. 87-793, § 602(a), 76 Stat. 843. Aug. 14, 1964, Pub. L. 88-426, § 102(a), 78 Stat. 400.
(b)	5 U.S.C. 1113(c)	Oct. 28, 1949, ch. 782, § 603 (d), 63 Stat. 965. Sept. 1, 1954, ch. 1208, § 109(c), 68 Stat. 1108.

In subsection (a), the words "the symbol for which is 'GS'" are added on authority of former section 1111 which is carried into section 5104. So much as related to the Crafts, Protective, and Custodial Schedule is omitted as repealed effective not later than Sept. 11, 1955, by the Act of Sept. 1, 1954, §§ 109(b), 110(b), 68 Stat. 1108.

In subsection (b), reference to payment made on the basis of a "monthly" rate is omitted since section 5504(b), former section 944(c), no longer provides for converting a basic annual rate to a basic monthly rate.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5332(a)	5 App.: 1113(b).	Oct. 29, 1965, Pub. L. 89-301, § 2(a), 79 Stat. 1111. July 18, 1966, Pub. L. 89-504, § 102(a), 80 Stat. 288.

Amendments

1967—Subsec. (a). Pub. L. 90-206 increased the compensation in each step of each grade.

Effective Date of 1967 Amendment

Section 220(a)(2) of Pub. L. 90-206 provided, except as otherwise expressly provided, that: "Sections 202 [which amended this section and enacted provisions set out as a note under this section], 203 [which amended section 3301 of Title 39, The Postal Service], 204 [which enacted section 3512A of Title 39, amended sections 3512, and 3513-3531 of Title 39, and enacted provisions set out as a note under section 3512A of Title 39], 205 [which amended sections 3542-3544 of Title 39, and enacted provisions set out as noted under sections 3542, 3544, 3552, and 3560 of Title 39], 206 [which amended sections 3560, 3573, and 3575 of Title 39, and enacted provisions set out as a note under section 3542 of Title 39], 208 [which amended section 4107 of Title 38, Veterans' Benefits], 209 [which amended sections 867 and 870 of Title 22, Foreign Relations and Intercourse, and enacted provisions set out as a note under section 867 of Title 22], 210 [which enacted provisions set out as a note under section 590h of Title 16, Conservation], 211 [which enacted provisions set out as a note under this section and section 548 of Title 28, Judiciary and Judicial Procedure], 213 (except subsections (d) and (e)) [which enacted provisions set out as notes under sections 603, 604, and 753 of Title 28], 214 (except subsections (*j*), (k), (*l*), (n), and (*o*)) [which enacted sections 60e-14, 61-2, 74a-2, and 293c of Title 2, The Congress, amended section 166b-3 of Title 40, Public Buildings, Property and Works and enacted provisions set out as a note under section 8339 of this title], and 216 [which enacted provisions set out as a note under section 60e-14 of Title 2] shall become effective as of the beginning of the first pay period which began on or after October 1, 1967."

SHORT TITLE

Section 201 of Pub. L. 90-206 provided that: "This title [enacting sections 60e-14, 61-2, 74a-2, 293c, and 351 to 361 of Title 2, sections 3110, 5733, and 5345 of this title, and section 3512A of Title 39, amending this section and sections 4101, 5303, 5314, 5315, 5316, 5533, 5542, 5544, 5545, and 8339 of this title, sections 60j, 61-1, 136a, and 136a-1 of Title 2, section 102 note of Title 3, sections 867 and 870 of Title 22, sections 603 and 792 of Title 28, sections 42a and 51a of Title 31, section 4107 of Title 38, sections 3301, 3512, 3513 to 3531, 3542, 3543, 3544, 3560, 3571, 3573, and 3575 of Title 39, sections 162a, 166b, 166b-1, and 166b-3 of Title 40, and section 39a of Title 44, and enacting provisions set out as notes under this section and sections 3110, 5301, 5542, and 8339 of this title, section 60e-14 of Title 2, section 590h of Title 16, section 867 of Title 22, sections 548, 603, 604, and 753 of Title 28, and sections 3512A, 3542, 3544, 3552, and 3560 of Title 39] may be cited as the 'Federal Salary Act of 1967'."

ESTABLISHMENT OF POSITIONS AND FIXING OF COMPENSATION BY SECRETARY OF COMMERCE

Secretary of Commerce may establish, and fix compensation for, four new positions at rates not in excess of maximum rate for GS-18 of the General Schedule under this section, see section 15(c) of Pub. L. 94-370, set out as a note under section 1511a of Title 15, Commerce and Trade.

ADJUSTMENT OF PAY RATES EFFECTIVE OCTOBER 1, 1972

Pub. L. 93-549, Dec. 26, 1974, 88 Stat. 1743, provided: "That notwithstanding the provisions of any other law or any regulation issued thereunder, no officer or employee of the United States shall have his pay reduced by reason of Executive Order 11777, dated April 12, 1974 [formerly set out under this section], relating to the effective date of the 1972 Federal pay comparability adjustment.

"Sec. 2. The Civil Service Commission shall issue regulations necessary to implement this Act."

1970 INCREASE IN PAY RATES

Pub. L. 91-231, Apr. 15, 1970, 84 Stat. 195, provided that:

"Sec. 1. [Short Title]. This Act may be cited as the 'Federal Employees Salary Act of 1970'.

"Sec. 2. [Adjustment of Pay Rates]. (a) (1) The President shall increase the rates of basic pay, basic compensation, and salaries (as such rates were increased by Executive Order Numbered 11474, dated June 16, 1969) [formerly set out as a note under this section] contained in the schedules listed in paragraph (2) of this subsection by amounts equal, as nearly as may be practicable and with regard to maintaining approximately equal increments within any grade, level, or class of any such schedule, to 6 percent.

"(2) The schedules referred to in paragraph (1) of this subsection are as follows: the General Schedule contained in section 5332(a) of title 5, United States Code [subsec. (a) of this section]; the Postal Field Service Schedule and the Rural Carrier Schedule contained in sections 3542(a) and 3543(a), respectively, of title 39, United States Code; the schedules relating to certain positions within the Department of Medicine and Surgery of the Veterans' Administration and contained in section 4107 of title 38, United States Code; and the Foreign Service schedules contained in sections 412 and 415 of the Foreign Service Act of 1946 [sections 867 and 870, respectively, of Title 22, Foreign Relations and Intercourse].

"(b) Rates of basic pay, basic compensation, and salaries of officers and employees paid under the schedules referred to in subsection (a) of this section shall be increased initially under conversion rules prescribed by the President or by such agency as the President may designate.

"(c) The increases made by the President under this section shall have the force and effect of law and shall be printed in (1) the Statutes at Large in the same volume as public laws, (2) the Federal Register, and (3) the Code of Federal Regulations.

"Sec. 3. [Employees of ASCS County Committees, Legislative and Judicial Branches; United States Attorneys: Salaries Fixed by Administrative Action]. (a) The rates of pay of personnel subject to sections 210 and 214 of the Federal Salary Act of 1967 (81 Stat. 633, 635; Public Law 90-206) [which, respectively, were set out as a note under section 590h of Title 16, Conservation, and amended sections 60e-14, 60j, 61-1, 61-2, 74a-2, 84-1, 84-2, and 293c of Title 2, The Congress, sections 5533 and 8339 note of this title, and section 166b-3 of Title 40, Public Buildings, Property, and Works], relating to Agricultural Stabilization and Conservation County Committee employees and to certain employees of the legislative branch of the Government, respectively, and any minimum or maximum rate, limitation, or allowance applicable to any such personnel, shall be adjusted, effective on the first day of the first pay period which begins on or after December 27, 1969, by amounts which are identical, insofar as practicable, to the amounts of the adjustments under section 2 of this Act for corresponding rates of pay for employees subject to the General Schedule, by the following authorities—

"(1) the Secretary of Agriculture, with respect to individuals employed by the county committees established under section 590h(b) of title 16;

"(2) the President pro tempore of the Senate, with respect to the United States Senate;

"(3) the Finance Clerk of the House of Representatives, with respect to the United States House of Representatives; and

"(4) the Architect of the Capitol, with respect to the Office of the Architect of the Capitol.

The provisions of this section shall not be construed to allow adjustments in the rates of pay of the following officers of the United States House of Representatives: Parliamentarian, Chaplain, Clerk, Sergeant at Arms, Doorkeeper, Postmaster, and the four Floor Assistants to the Minority whose position titles formerly were Minority Clerk, Minority Sergeant at Arms, Minority Doorkeeper, and Minority Postmaster.

"(b) Notwithstanding section 665 of title 31, the rates of pay of employees in and under the judicial branch of the Government, whose rates of pay are fixed by administrative action pursuant to law and are not otherwise adjusted under this section may be adjusted, effective on the first day of the first pay period which begins on or after December 27, 1969, by amounts not to exceed the amounts of the adjustments under section 2(a) of this Act for corresponding rates of pay. The limitations fixed by law with respect to the aggregate salaries payable to secretaries and law clerks of circuit and district judges shall be adjusted, effective on the first day of the first pay period which begins on or after the date on which adjustments become effective under this section, by amounts not to exceed the amounts of the adjustments under this section for corresponding rates of pay.

"(c) The rates of pay of the United States attorneys and assistant United States attorneys whose annual salaries are fixed pursuant to section 548 of title 28, United States Code, shall be increased, effective on the first day of the first pay period which begins on or after December 27, 1969, by amounts equal, as nearly as may be practicable, to the increases provided pursuant to section 2 of this Act for corresponding rates of pay.

"(d) Notwithstanding section 665 of title 31, the rates of pay of employees of the Federal Government and of the government of the District of Columbia whose rates of pay are fixed by administrative action pursuant to law and are not otherwise increased pursuant to this section are hereby authorized to be increased, effective on the first day of the first pay period which begins on or after December 27, 1969, by amounts not to exceed the increases provided pursuant to section 2 of this Act for corresponding rates of pay in the appropriate schedule or scale of pay.

"Sec. 4. [Stop Increases; Administrative Action; Level V Limitations]. (a) An increase in pay, compensation, or salary which becomes effective under section 2 of this Act is not an equivalent increase in pay within the meaning of section 5335 of title 5, United States Code, or section 3552 of title 39, United States Code.

"(b) Nothing in this Act shall impair any authority pursuant to which rates of pay, compensation, or salary may be fixed by administrative action.

"(c) Notwithstanding any provisions other than section 6 of this Act—

"(1) any officer or employee of the United States Government receiving pay, compensation, or salary which is less than the basic pay for level V of the Executive Schedule in section 5316 of title 5, United States Code, in effect on the date of enactment of this Act [Apr. 15, 1970], shall not have his pay, compensation, or salary increased, by reason of the enactment of this Act, to a rate in excess of the basic pay for such level V; and

"(2) any officer or employee of the United States Government receiving pay, compensation, or salary equal to or in excess of the basic pay for such level V shall not have his pay, compensation, or salary increased.

"Sec. 5. [Retroactive Pay]. (a) Retroactive pay, compensation, or salary shall be paid by reason of this Act only in the case of an individual in the service of the United States (including service in the Armed Forces of the United States) or the municipal government of the District of Columbia on the date of enactment of this Act [Apr. 15, 1970], except that such retroactive pay, compensation, or salary shall be paid—

"(1) to an officer or employee who retired, during the period beginning on the first day of the first pay period which began on or after December 27, 1969, and ending on the date of enactment of this Act [Apr. 15, 1970], for services rendered during such period; and

"(2) in accordance with subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts, for services rendered, during the period beginning on the first day of the first pay period which began on or after December 27, 1969, and ending on the date of enactment of this Act [Apr. 15, 1970], by an officer or employee who died during such period.

Such retroactive pay, compensation, or salary shall not be considered as basic pay for the purposes of subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, or any other retirement law or retirement system, in the case of any such retired or deceased officer or employee.

"(b) For the purposes of this section, service in the Armed Forces of the United States, in the case of an individual relieved from training and service in the Armed Forces of the United States or discharged from hospitalization following such training and service, shall include the period provided by law for the mandatory restoration of such individual to a position in or under the United States Government or the municipal government of the District of Columbia.

"Sec. 6. [District of Columbia Judges; Board of Tax Appeals]. [Section amended sections 11-702(d), 11-902 (d), and 47-2402 of the District of Columbia Code and is therefore not set out herein.]

"Sec. 7. [Former Presidents' Staffs] [Section amended section 1(b) of Pub. L. 85-745, Aug. 25, 1958, 72 Stat. 838, as amended, which is set out as a note under section 102 of Title 3, The President. This section is therefore not set out herein.]

"Sec. 8. [Premium Pay]. [Section amended section 5545(c)(2) of this title, and is therefore not set out herein.]

"Sec. 9. [Effective Date]. (a) Sections 1 to 6, inclusive, of this Act shall become effective on the first day of the first pay period which begins on or after December 27, 1969.

"(b) This section and sections 7 and 8 of this Act shall become effective on the date of enactment of this Act [Apr. 15, 1970].

"(c) For purposes of determining the amount of insurance for which an individual is eligible under chapter 87 of title 5, United States Code, relating to group life insurance for Government employees, all changes in rates of pay, compensation, and salary which result from the enactment of this Act shall be held and considered to become effective as of the date of such enactment [Apr. 15, 1970].

"(d) Any deduction to be made as the result of the enactment of this Act from the pay, compensation, or salary of an officer or employee enrolled in a retirement system of the United States Government, and the contribution of the agency employing the officer or employee, shall be made at the rates of deductions and contributions in effect for that system on the date of such enactment [Apr. 15, 1970]."

INITIAL ADJUSTMENT OF 1967 PAY INCREASES

Section 202(b) of Pub. L. 90-206 provided that:

"Except as provided in section 5303 of title 5, United States Code [section 5303 of this title], the rates of basic pay of officers and employees to whom the General Schedule set forth in the amendment made by subsection (a) of this section [amending this section] applies shall be initially adjusted as of the effective date of this section, as follows:

"(1) If the officer or employee is receiving basic pay immediately prior to the effective date of this section [see Effective Date of 1967 Amendment note under this section] at one of the rates of a grade in the General Schedule, he shall receive a rate of basic pay at the corresponding rate in effect on and after such date.

"(2) If the officer or employee is receiving basic pay immediately prior to the effective date of this section [see Effective Date of 1967 Amendment note under this section] at a rate between two rates of a grade in the General Schedule, he shall receive a rate of basic pay at the higher of the two corresponding rates in effect on and after such date.

"(3) If the officer or employee is receiving basic pay immediately prior to the effective date of this section [see Effective Date of 1967 Amendment note under this section] at a rate in excess of the maximum rate for his grade, he shall receive (A) the maximum rate for his grade in the new schedule, or (B) his existing rate of basic pay increased by 4.5 per centum, rounded to the next highest dollar, if such existing rate as so increased is higher.

"(4) If the officer or employee, immediately prior to the effective date of this section [see Effective Date of 1967 Amendment note under this section], is receiving, pursuant to section 2(b)(4) of the Federal Employees Salary Increase Act of 1955, an existing aggregate rate of pay determined under section 208(b) of the Act of September 1, 1954, (68 Stat. 1111), plus subsequent increases authorized by law, he shall receive an aggregate rate of pay equal to the sum of his existing aggregate rate of pay on the day preceding the effective date of this section, plus the amount of increase made by this section in the maximum rate of his grade, until (i) he leaves his position, or (ii) he is entitled to receive aggregate pay at a higher rate by reason of the operation of this Act or any other provision of law; but, when such position becomes vacant, the aggregate rate of pay of any subsequent appointee thereto shall be fixed in accordance with applicable provisions of law. Subject to clauses (i) and (ii) of the immediately preceding sentence of this subparagraph, the amount of the increase provided by this section shall be held and considered for the purposes of section 208(b) of the Act of September 1, 1954, to constitute a part of the existing rate of pay of the employee.

"(5) If the officer or employee, at any time during the period beginning on the effective date of this section [see Effective Date of 1967 Amendment note under this section], and ending on the date of enactment of this title [Dec. 16, 1967], was promoted from one grade under the General Schedule contained in section 5332(a) of title 5, United States Code [subsec. (a) of this section] to another such grade at a rate which is above the minimum rate thereof, his rate of basic pay shall be adjusted retroactively from the effective date of this section to the date on which he was so promoted, on the basis of the rate which he was receiving during the period from such effective date to the date of such promotion and, from the date of such promotion, on the basis of the rate for that step of the appropriate grade of the General Schedule contained in the amendment made by subsection (a) of this section [amending the section] which corresponds numerically to the step of the grade of the General Schedule to which such officer or employee was promoted as in effect (without regard to this title) at the time of such promotion.

"(6) If the officer or employee, at any time during the period beginning on the effective date of this section and ending on the date of enactment of this title [Dec. 16, 1967] became subject to the General Schedule and his rate of basic pay was set above the minimum rate of the grade on the basis of a previously earned rate above such minimum rate, his rate of basic pay shall be adjusted retroactively to the date on which he became subject to the General Schedule on the basis of the rate of the appropriate grade of the General Schedule contained in this section which corresponds numerically to the rate of the grade at which the pay of such officer or employee was set at the time he became subject to the General Schedule."

Section 202(b) of Pub. L. 90-206 effective as of the beginning of the first pay period which begins on or after Oct. 1, 1967, see section 220(a)(2) of Pub. L. 90-206, set out as a note under this section.

1967 Salary Increase for Persons Whose Compensation Rates are Fixed by Administrative Action

Section 211(b) to (d) of Pub. L. 90-206 provided that:

"(b) Notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 665) [section 665 of Title 31], the rates of pay of officers and employees of the Federal Government and of the municipal government of the District of Columbia whose rates of pay are fixed by administrative action pursuant to law and are not otherwise increased by this title are hereby authorized to be increased, effective on the effective date of section 202 of this title [see Effective Date of 1967 Amendment note under this section], by amounts not to exceed the increases provided by this title for corresponding rates of pay in the appropriate schedule or scale of pay.

"(c) Nothing contained in this section shall be held or considered to authorize any increase in the rates of pay of officers and employees whose rates of pay are fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates or practices.

"(d) Nothing contained in this section shall affect the authority contained in any law pursuant to which rates of pay may be fixed by administrative action."

Sections 211(b)-(d) of Pub. L. 90-206 effective as of the beginning of the first pay period which begins on or after Oct. 1, 1967, see section 220(a)(2) of Pub. L. 90-206, set out as a note under this section.

Retroactive Compensation Under 1967 Pay Increases

Section 218 of Pub. L. 90-206 provided that:

"(a) Retroactive pay, compensation, or salary shall be paid by reason of this title only in the case of an individual in the service of the United States (including service in the Armed Forces of the United States) or the municipal government of the District of Columbia on the date of enactment of this title [Dec. 16, 1967] except that such retroactive pay, compensation, or salary shall be paid—

"(1) to an officer or employee who retired, during the period beginning on the first day of the first pay period which began on or after October 1, 1967, and ending on the date of enactment of this title [Dec. 16, 1967], for services rendered during such period, and

"(2) in accordance with subchapter VIII of chapter 55 of title 5, United States Code, relating to settlement of accounts, for services rendered, during the period beginning on the first day of the first pay period which began on or after October 1, 1967, and ending on the date of enactment of this title [Dec. 16, 1967], by an officer or employee who died during such period.

Such retroactive pay, compensation, or salary shall not be considered as basic pay for the purposes of subchapter III of chapter 83 of title 5, United States Code, relating to civil service retirement, or any other retirement law or retirement system, in the case of any such retired or deceased officer or employee.

"(b) For the purposes of this section, service in the Armed Forces of the United States, in the case of an individual relieved from training and service in the Armed Forces of the United States or discharged from hospitalization following such training and service, shall include the period provided by law for the mandatory restoration of such individual to a position in or under the Federal Government or the municipal government of the District of Columbia."

Section 218 of Pub. L. 90-206 effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as a note under section 3110 of this title.

Executive Order No. 11413

Ex. Ord. No. 11413, June 11, 1968, 33 F.R. 8641, formerly set out as a note under this section, which provided for the adjustment of pay rates effective July 1, 1968, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under this section.

Executive Order No. 11474

Ex. Ord. No. 11474, June 16, 1969, 34 F.R. 9605, formerly set out as a note under this section, which provided for the adjustment of pay rates effective July 1, 1969, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under this section.

Executive Order No. 11524

Ex. Ord. No. 11524, Apr. 15, 1970, 35 F.R. 6247, formerly set out as a note under this section, which provided for the adjustment of pay rates effective first pay period on or after Dec. 27, 1969, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under this section.

EXECUTIVE ORDER NO. 11576

Ex. Ord. No. 11576, Jan. 8, 1971, 36 F.R. 347, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Jan. 1, 1971, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under this section.

EXECUTIVE ORDER NO. 11637

Ex. Ord. No. 11637, Dec. 22, 1971, 36 F.R. 24911, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Jan. 1, 1972, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under this section.

EXECUTIVE ORDER NO. 11691

Ex. Ord. No. 11691, Dec. 15, 1972, 37 F.R. 27607, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1973, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under this section.

EXECUTIVE ORDER NO. 11739

Ex. Ord. No. 11739, Oct. 3, 1973, 38 F.R. 27581, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1973, was superseded by Ex. Ord. No. 11811, Oct. 7, 1974, 39 F.R. 36302, formerly set out as a note under this section.

EXECUTIVE ORDER NO. 11811

Ex. Ord. No. 11811, Oct. 7, 1975, 39 F.R. 36302, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1974, was superseded by Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, set out as a note under this section.

EXECUTIVE ORDER NO. 11883

Ex. Ord. No. 11883, Oct. 6, 1975, 40 F.R. 47091, formerly set out as a note under this section, which provided for the adjustment of pay rates effective Oct. 1, 1975, was superseded by Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, set out as a note under this section.

EX. ORD. NO. 11941. ADJUSTMENT OF PAY RATES EFFECTIVE OCTOBER 1, 1976

Ex. Ord. No. 11941, Oct. 1, 1976, 41 F.R. 43889, as amended by Ex. Ord. No. 11943, Oct. 25, 1976, 41 F.R. 47213, provided:

By virtue of the authority vested in me by the Constitution and the laws of the United States of America, and as President of the United States of America, it is hereby ordered as follows:

SECTION 1. *Statutory Pay Systems.* Pursuant to the provisions of subchapter I of Chapter 53 of Title 5 of the United States Code [this subchapter], the rates of basic pay and salaries are adjusted, as set forth at the schedules attached hereto and made a part hereof, for the following statutory pay systems:

(a) The General Schedule (5 U.S.C. 5332(a)) at Schedule 1;

(b) the schedules for the Foreign Service (22 U.S.C. 867 and 870(a)) at Schedule 2; and

(c) the schedules for the Department of Medicine and Surgery, Veterans Administration (38 U.S.C. 4107) at Schedule 3.

SEC. 2. *Pay and Allowances for Members of the Uniformed Services.* Pursuant to the provisions of Section 1009 of Title 37 of the United States Code, the rates of monthly basic pay (37 U.S.C. 203(a)), the rates of basic allowances for subsistence (37 U.S.C. 402), and the rates of basic allowances for quarters (37 U.S.C. 103(a)) are adjusted, as set forth at Schedule 4 attached hereto and made a part hereof, for members of the uniformed services.

SEC. 3. *Executive Salaries.* The Executive Salary Cost of Living Adjustment Act (Public Law 94-82, 89 Stat. 419) [see short title note under section 5312 of this title], provides for adjustments in the rates of pay and salaries, as set forth at the schedules attached hereto and made a part hereof, for the following:

(a) The Vice President (3 U.S.C. 104) and the Executive Schedule (5 U.S.C. 5312-5316) at Schedule 5;

(b) Congressional Salaries (2 U.S.C. 31) at Schedule 6; and

(c) Judicial Salaries (28 U.S.C. 5, 44(d), 135, 173, 213, 252, 792(b) and 11 U.S.C. 68(a)) at Schedule 7.

SEC. 4. *Effective Date.* The adjustments in rates of monthly basic pay and basic allowances for subsistence and quarters for members of the uniformed services shall be effective on October 1, 1976. All other adjustments of salary or pay shall be effective on the first day of the first applicable pay period beginning on or after October 1, 1976.

SEC. 5. *Superseded Orders.* Executive Order No. 11883 of October 6, 1975.

GERALD R. FORD.

Schedule 1
The General Schedule

	1	2	3	4	5	6	7	8	9	10
GS-1	$5,810	$6,004	$6,198	$6,392	$6,586	$6,780	$6,974	$7,168	$7,362	$7,556
GS-2	6,572	6,791	7,010	7,229	7,448	7,667	7,886	8,105	8,324	8,543
GS-3	7,408	7,655	7,902	8,149	8,396	8,643	8,890	9,137	9,384	9,631
GS-4	8,316	8,593	8,870	9,147	9,424	9,701	9,978	10,255	10,532	10,809
GS-5	9,303	9,613	9,923	10,233	10,543	10,853	11,163	11,473	11,783	12,093
GS-6	10,370	10,716	11,062	11,408	11,754	12,100	12,446	12,792	13,138	13,484
GS-7	11,523	11,907	12,291	12,675	13,059	13,443	13,827	14,211	14,595	14,979
GS-8	12,763	13,188	13,613	14,038	14,463	14,888	15 313	15,738	16,163	16,588
GS-9	14,097	14,567	15,037	15,507	15,977	16,447	16,917	17,387	17,857	18,327
GS-10	15,524	16,041	16,558	17,075	17,592	18,109	18,626	19,143	19,660	20,177
GS-11	17,056	17,625	18,194	18,763	19,332	19,901	20,470	21,039	21,608	22,177
GS-12	20,442	21,123	21,804	22,485	23,166	23,847	24,528	25,209	25,890	26,571
GS-13	24,308	25,118	25,928	26,738	27,548	28,358	29,168	29,978	30,788	31,598
GS-14	28,725	29,683	30,641	31,599	32,557	33,515	34,473	35,431	36,389	37,347
GS-15	33,789	34,915	36,041	37,167	38,293	39,419	*40,545	*41,671	*42,797	*43,923
GS-16	*39,629	*40,950	*42,271	*43,592	*44,913	*46,234	*47,555	*48,876	*50,197	
GS-17	*46,423	*47,970	*49,517	*51,064	*52,611					
GS-18	*54,410									

* Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $39,600.

Schedule 2

Foreign Service Schedules

Part I - The Per Annum Salaries of Foreign Service Officers

	1	2	3	4	5	6	7
SO-1	*$51,226	*$52,934	*$54,410				
SO-2	*39,341	*40,652	*41,963	*$43,274	*$44,585	*$45,896	*$47,207
SO-3	30,674	31,696	32,718	33,740	34,762	35,784	36,806
SO-4	24,308	25,118	25,928	26,738	27,548	28,358	29,168
SO-5	19,601	20,254	20,907	21,560	22,213	22,866	23,519
SO-6	16,096	16,633	17,170	17,707	18,244	18,781	19,318
SO-7	13,478	13,927	14,376	14,825	15,274	15,723	16,172
SO-8	11,523	11,907	12,291	12,675	13,059	13,443	13,827

Part II - The Per Annum Salaries of Foreign Staff Officers and Employees

	1	2	3	4	5	6	7	8	9	10
SS-1	$30,674	$31,696	$32,718	$33,740	$34,762	$35,784	$36,806	$37,828	$38,850	*$39,872
SS-2	24,308	25,118	25,928	26,738	27,548	28,358	29,168	29,978	30,788	31,598
SS-3	19,601	20,254	20,907	21,560	22,213	22,866	23,519	24,172	24,825	25,478
SS-4	16,096	16,633	17,170	17,707	18,244	18,781	19,318	19,855	20,392	20,929
SS-5	14,402	14,882	15,362	15,842	16,322	16,802	17,282	17,762	18,242	18,722
SS-6	12,893	13,323	13,753	14,183	14,613	15,043	15,473	15,903	16,333	16,763
SS-7	11,547	11,932	12,317	12,702	13,087	13,472	13,857	14,242	14,627	15,012
SS-8	10,346	10,691	11,036	11,381	11,726	12,071	12,416	12,761	13,106	13,451
SS-9	9,273	9,582	9,891	10,200	10,509	10,818	11,127	11,436	11,745	12,054
SS-10	8,316	8,593	8,870	9,147	9,424	9,701	9,978	10,255	10,532	10,809

*Basic pay is limited by Section 5308 of Title 5 of the United States Code to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $39,600.

SCHEDULE 3

Department of Medicine and Surgery Schedules, Veterans Administration

	Minimum	Maximum
Section 4103 Schedule:		
Chief Medical Director	[4]	[3] $61,015
Deputy Chief Medical Director	[4]	[2] 58,531
Associate Deputy Chief Medical Director.	[4]	[1] 56,062
Assistant Chief Medical Director	[4]	[1] 54,410
Medical Director	[1] $46,423	[1] 52,611
Director of Nursing Service	[1] 46,423	[1] 52,611
Director of Chaplain Service	[1] 39,629	[1] 50,197
Director of Pharmacy Service	[1] 39,629	[1] 50,197
Director of Dietetic Service	[1] 39,629	[1] 50,197
Director of Optometry	[1] 39,629	[1] 50,197
Physician and Dentist Schedule:		
Director grade	[1] 39,629	[1] 50,197
Executive grade	36,593	[1] 47,573
Chief grade	33,789	[1] 43,923
Senior grade	28,725	37,347
Intermediate grade	24,308	31,598
Full grade	20,442	26,571
Associate grade	17,056	22,177
Nurse Schedule:		
Director grade	33,789	[1] 43,923
Assistant Director grade	28,725	37,347
Chief grade	24,308	31,598
Senior grade	20,442	26,571
Intermediate grade	17,056	22,177
Full grade	14,097	18,327
Associate grade	12,131	15,767
Junior grade	10,370	13,484

[1] Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $39,600.

[2] Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level IV of the Executive Schedule which is, as of the effective date of this schedule, $41,800.

[3] Basic pay is limited by Section 4107(d) of Title 38 of the United States Code to the rate for level III of the Executive Schedule which is, as of the effective date of this schedule, $44,000.

[4] Single rate

SCHEDULE 4

Pay and Allowances of the Uniformed Services

PART I-MONTHLY BASIC PAY

(Years of service computed under 37 U.S.C. 205)

Commissioned Officers

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6
O-10[1]	$2943.90	$3047.40	$3047.40	$3047.40	$3047.40
O-9	2609.10	2677.80	2734.50	2734.50	2734.50
O-8	2363.10	2433.90	2491.80	2491.80	2491.80
O-7	1963.50	2097.30	2097.30	2097.30	2190.90
O-6	1455.30	1599.30	1703.40	1703.40	1703.40
O-5	1164.00	1367.10	1461.30	1461.30	1461.30
O-4	981.30	1194.30	1274.70	1274.70	1297.80
O-3[2]	912.00	1019.40	1089.60	1205.70	1263.30
O-2[2]	795.00	868.50	1043.10	1078.20	1100.70
O-1[2]	690.00	718.50	868.50	868.50	868.50

	Over 8	Over 10	Over 12	Over 14	Over 16
O-10[1]	$3164.10	$3164.10	*$3406.80	*$3406.80	*$3650.40
O-9	2804.10	2004.10	2920.20	2920.20	3164.10
O-8	2677.80	2677.80	2804.10	2804.10	2920.20
O-7	2190.90	2318.40	2318.40	2433.90	2677.80
O-6	1703.40	1703.40	1703.40	1761.30	2040.30
O-5	1461.30	1506.00	1586.40	1692.30	1819.50
O-4	1355.70	1447.80	1529.40	1599.30	1668.90
O-3[2]	1308.90	1379.10	1447.80	1483.20	1483.20
O-2[2]	1100.70	1100.70	1100.70	1100.70	1100.70
O-1[2]	868.50	868.50	868.50	868.50	868.50

	Over 18	Over 20	Over 22	Over 26	Over 30
O-10[1]	*$3650.40	*$3894.60	*$3894.60	*$4137.30	*$4137.30
O-9	3164.10	*3406.80	*3406.80	*3650.40	*3650.40
O-8	3047.40	3164.10	3291.00	3291.00	3291.00
O-7	2861.70	2861.70	2861.70	2861.70	2861.70
O-6	2144.70	2190.90	2318.40	2514.00	2514.00
O-5	1923.90	1981.80	2051.40	2051.40	2051.40
O-4	1715.40	1715.40	1715.40	1715.40	1715.40
O-3[2]	1483.20	1483.20	1483.20	1483.20	1483.20
O-2[2]	1100.70	1100.70	1100.70	1100.70	1100.70
O-1[2]	868.50	868.50	868.50	868.50	868.50

[1] While serving as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, or Commandant of the Marine Corps, basic pay for this grade is $4565.10* regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

[2] Does not apply to commissioned officers who have been credited with over 4 years' active service as enlisted members.

*Basic pay is limited by Section 5308 of Title 5 of the United States Code, as added by the Federal Pay Comparability Act of 1970, to the rate for level V of the Executive Schedule which is, as of the effective date of this schedule, $3300.00 per month.

Commissioned officers who have been credited with over 4 years' active service as enlisted members

(Years of service computed under section 205)

Pay Grade	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
O-3	$1205.70	$1263.30	$1308.90	$1379.10	$1447.80	$1506.00	$1506.00	$1506.00	$1506.00	$1506.00	$1506.00	$1506.00
O-2	1078.20	1100.70	1135.50	1194.30	1240.50	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70	1274.70
O-1	868.50	927.30	961.80	996.60	1031.40	1078.20	1078.20	1078.20	1078.20	1078.20	1078.20	1078.20

Warrant Officers

(Years of service computed under section 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
W-4	$928.80	$996.60	$996.60	$1019.40	$1065.90	$1112.70	$1159.20	$1240.50	$1297.80	$1343.70	$1379.10	$1424.70	$1472.10	$1586.40	$1586.40
W-3	844.50	916.20	916.20	927.30	938.40	1007.10	1065.90	1100.70	1135.50	1169.40	1205.70	1252.20	1297.80	1343.70	1343.70
W-2	739.50	799.80	799.80	823.20	868.50	916.20	950.70	985.20	1019.40	1055.10	1089.60	1124.10	1169.40	1169.40	1169.40
W-1	616.20	706.50	706.50	765.30	799.80	834.60	868.50	904.20	938.40	973.20	1007.10	1043.10	1043.10	1043.10	1043.10

Enlisted Members

(Years of service computed under section 205)

Pay Grade	2 or less	Over 2	Over 3	Over 4	Over 6	Over 8	Over 10	Over 12	Over 14	Over 16	Over 18	Over 20	Over 22	Over 26	Over 30
E-9 [1]	0	0	0	0	0	0	$1055.40	$1079.40	$1104.00	$1129.50	$1154.10	$1176.90	$1239.00	$1359.00	$1359.00
E-8	0	0	0	0	0	$885.60	910.20	934.50	959.10	984.00	1006.80	1031.70	1092.00	1214.10	1214.10
E-7	$618.30	$667.20	$692.10	$716.10	$741.00	764.10	788.40	813.30	849.90	873.90	898.50	910.20	971.40	1092.00	1092.00
E-6	534.00	582.30	606.60	631.80	655.50	679.80	704.40	741.00	764.10	788.40	800.70	800.70	800.70	800.70	800.70
E-5	468.90	510.30	534.90	558.30	594.60	618.90	643.80	667.20	679.80	679.80	679.80	679.80	679.80	679.80	679.80
E-4	450.60	475.80	503.70	543.00	564.30	564.30	564.30	564.30	564.30	564.30	564.30	564.30	564.30	564.30	564.30
E-3	433.20	457.20	475.50	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40	494.40
E-2	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30	417.30
E-1	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40	374.40

[1] While serving as Sergeant Major of the Army, Master Chief Petty Officer of the Navy or Coast Guard, Chief Master Sergeant of the Air Force, or Sergeant Major of the Marine Corps, basic pay for this grade is $1652.10 regardless of cumulative years of service computed under Section 205 of Title 37 of the United States Code.

PART II — BASIC ALLOWANCE FOR SUBSISTENCE RATES

Officers	$55.61 per month.
Enlisted Members:	
When on leave or authorized to mess separately.	2.65 per day.
When rations in-kind are not available.	2.99 per day.
When assigned to duty under emergency conditions where no messing facilities of the United States are available.	3.97 per day.

PART III — MONTHLY BASIC ALLOWANCE FOR QUARTERS RATES

Pay Grade	Without dependents		With dependents
	Full rate [1]	Partial rate [2]	
Commissioned Officers:			
O-10	$297.00	$29.40	$371.40
O-9	297.00	29.40	371.40
O-8	297.00	29.40	371.40
O-7	297.00	29.40	371.40
O-6	268.80	22.80	327.90
O-5	249.30	19.20	300.30
O-4	222.90	15.30	269.10
O-3	196.80	12.90	242.70
O-2	171.30	10.20	216.90
O-1	133.80	7.50	174.30
Warrant Officers:			
W-4	$215.10	$14.70	$259.50
W-3	192.60	12.00	237.30
W-2	168.30	9.30	213.60
W-1	152.10	8.10	197.10
Enlisted Members:			
E-9	$162.60	$10.80	$228.60
E-8	150.30	8.70	212.40
E-7	128.40	6.90	198.30
E-6	117.00	5.70	183.00
E-5	112.50	4.80	168.30
E-4	99.30	4.50	147.90
E-3	88.50	4.50	128.40
E-2	78.30	4.20	128.40
E-1	73.80	3.90	128.40

[1] Payment of the full rate of basic allowance for quarters at these rates for members of the uniformed services to personnel without dependents is authorized by 37 U.S.C. 403 and Part IV of Executive Order No. 11157, as amended.

[2] Payment of the partial rate of basic allowance for quarters at these rates to members of the uniformed services without dependents who, under 37 U.S.C. 403(b) or 403(c), are not entitled to the full rate of basic allowance for quarters, is authorized by 37 U.S.C. 1009(d) and Part IV of Executive Order No. 11157, as amended.

SCHEDULE 5

Vice President and the Executive Schedule

Vice President	[1] $68,800
Level I	[2] $66,000
Level II	[3] $46,800
Level III	[4] $44,000
Level IV	[5] $41,800
Level V	[6] $39,600

Pursuant to the Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds the rate in effect on September 30, 1976, as follows:

[1] $65,600.

[2] $63,000.

[3] $44,600.

[4] $42,000.

[5] $39,900.

[6] $37,800.

SCHEDULE 6

Congressional Salaries

Senator	[1] $46,800
Member of the House of Representatives	[1] $46,800
Delegate to the House of Representatives	[1] $46,800
Resident Commissioner from Puerto Rico	[1] $46,800
President pro tempore of the Senate	[2] $54,500
Majority leader and minority leader of Senate	[2] $54,500
Majority leader and minority leader of House of Representatives	[2] $54,500
Speaker of the House of Representatives	[3] $68,800

Pursuant to the Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds the rate in effect on September 30, 1976, as follows:

[1] $44,600.

[2] $52,000.

[3] $65,600.

SCHEDULE 7

Judicial Salaries

Chief Justice of the United States	[1] $68,800
Associate Justices of the Supreme Court	[2] $66,000
Circuit Judges	[3] $46,800
District Judges	[4] $44,000
Judges of the Court of Claims	[3] $46,800
Judges of the Court of Customs and Patent Appeals.	[3] $46,800
Judges of the Customs Court	[4] $44,000
Commissioners of the Court of Claims	[5] $39,600
Referees in Bankruptcy (full-time)	[5] $39,600

Pursuant to the Legislative Branch Appropriation Act, 1977, funds are not available to pay a salary at a rate which exceeds the rate in effect on September 30, 1976, as follows.

[1] $65,600.

[2] $63,000.

[3] $44,600.

[4] $42,000.

[5] $37,800.

CROSS REFERENCES

Coast Guard civilian teaching staff, see section 186 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 575, 3109, 5303, 5364, 6301 of this title; title 2 sections 60a-1, 60a-2, 166, 353, 414, 416, 437c, 476, 601; title 7 section 16; title 10 sections 867, 4540, 7212, 9540; title 12 sections 635a, 1749bbb-1, 2405; title 15 sections 205h, 205i, 766, 2412, 2451; title 16 sections 470m, 1401, 1403; title 17 App. section 802; title 18 sections 3153, 4202, 4204, 4351, 4352; title 19 section 2171; title 20 sections 955, 957, 963, 1089, 1091f, 1102, 1135c, 1135c-1, 1145, 1221e, 1221f, 1233c, 1233d, 1402, 1505, 1532, 2011, 2012, 2103, 2390; title 21 sections 113a, 376a; title 22 sections 1037a, 1221e, 1221f, 2385, 2386, 2512, 2903, 2905; title 25 section 640d-11; title 26 section 4946; title 28 sections 332, 548, 625; title 29 sections 183, 656, 661, 676, 774, 792; title 30 sections 812, 938; title 31 section 52c; title 32 section 709; title 33 sections 906, 1128, 1320, 1325, 1374; title 37 section 1009; title 42 sections 1320a-1, 1320c-12, 1395*oo*, 1863, 1962a-4, 1962b-4, 1995d, 2968, 3015, 3765, 3774, 4306, 4372, 4845, 5042, 5612, 5619, 5651, 6614, 6616, 6632; title 44 section 3319; title 45 section 715; title 49 section 26b; title 50 App. section 2169.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 1-143, 1-1151, 1-1182, 11-2301, 431 and 434 of title 11, Appendix, 23-1305, 23-1306, 31-1522, 31-1714, 31-1716, 43-205, 45-1633, 47-646, 49-401 of the District of Columbia Code.

§ 5333. Minimum rate for new appointments; higher rates for supervisors of wage-board employees

(a) New appointments shall be made at the minimum rate of the appropriate grade. However, under regulations prescribed by the Civil Service Commission which provide for such considerations as the existing pay or unusually high or unique qualifications of the candidate, or a special need of the Government for his services, the head of an agency may appoint, with the approval of the Commission in each specific case, an individual to a position in GS-11 or above at such a rate above the minimum rate of the appropriate grade as the Commission may authorize for this purpose. The approval of the Commission in each specific case is not required with respect to an appointment made by the Librarian of Congress.

(b) Under regulations prescribed by the Civil Service Commission, an employee in a position to which this subchapter applies, who regularly has responsibility for supervision (including supervision over the technical aspects of the work concerned) over employees whose pay is fixed and adjusted from time to time by wage boards or similar administrative authority as nearly as is consistent with the public interest in accordance with prevailing rates, may be paid at one of the rates for his grade which is above the highest rate of basic pay being paid to any such prevailing-rate employee regularly supervised, or at the maximum rate for his grade, as provided by the regulations.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 467; Pub. L. 90-83, § 1(19), Sept. 11, 1967, 81 Stat. 199.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 1131	Oct. 28, 1949, ch. 782, § 801, 63 Stat. 969. Aug. 14, 1964, Pub. L. 88-426, § 103(a), 78 Stat. 401.
(b)	5 U.S.C. 1133	Oct. 28, 1949, ch. 782, § 803, 63 Stat. 970. Sept. 1, 1954, ch. 1208, § 104, 68 Stat. 1106. Oct. 11, 1962, Pub. L. 87-793, § 604(c), 76 Stat. 848.

In subsection (b), the word "scheduled" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5333(a)	5 App.: 1131	July 18, 1966, Pub. L. 89-504, § 103, 80 Stat. 289.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540.

§ 5334. Rate on change of position or type of appointment; regulations

(a) The rate of basic pay to which an employee is entitled is governed by regulations prescribed by the Civil Service Commission in conformity with this subchapter and chapter 51 of this title when—

(1) he is transferred from a position in the legislative, judicial, or executive branch to which this subchapter does not apply;

(2) he is transferred from a position in the legislative, judicial, or executive branch to which this subchapter applies to another such position;

(3) he is demoted to a position in a lower grade;

(4) he is reinstated, reappointed, or reemployed in a position to which this subchapter applies following service in any position in the legislative, judicial, or executive branch;

(5) his type of appointment is changed;

(6) his employment status is otherwise changed; or

(7) his position is changed from one grade to another grade.

For the purpose of this subsection, an individual employed by the Appalachian Regional Commission under section 106(a) of title 40, appendix, or by a regional commission established pursuant to section 3182 of title 42, under section 3186(2) of that title, who was a Federal employee immediately prior to such employment by a commission and within 6 months after separation from such employment is employed in a position to which this subchapter applies, shall be treated as if transferred from a position in the executive branch to which this subchapter does not apply.

(b) An employee who is promoted or transferred to a position in a higher grade is entitled to basic pay at the lowest rate of the higher grade which exceeds his existing rate of basic pay by not less than two step-increases of the grade from which he is promoted or transferred. If, in the case of an employee so promoted or transferred who is receiving basic pay at a rate in excess of the maximum rate of his grade, there is no rate in the higher grade which is at least two step-increases above his existing rate of basic pay, he is entitled to—

(1) the maximum rate of the higher grade; or

(2) his existing rate of basic pay, if that rate is the higher.

If an employee so promoted or transferred is receiving basic pay at a rate saved to him under section 5337 of this title on reduction in grade, he is entitled to—

(A) basic pay at a rate two steps above the rate which he would be receiving if section 5337 of this title were not applicable to him; or

(B) his existing rate of basic pay, if that rate is the higher.

(c) An employee in the legislative branch who is paid by the Secretary of the Senate or the Clerk of the House of Representatives, and who has completed two or more years of service as such an employee, and a Member of the Senate or House of Representatives who has completed two or more years of service as such a Member, may, on appointment to a position to which this subchapter applies, have his initial rate of pay fixed—

(1) at the minimum rate of the appropriate grade; or

(2) at a step of the appropriate grade that does not exceed the highest previous rate of pay received by him during that service in the legislative branch.

(d) The Commission may prescribe regulations governing the retention of the rate of basic pay of an employee who together with his position is brought under this subchapter and chapter 51 of this title. If an employee so entitled to a retained rate under these regulations is later demoted to a position under this subchapter and chapter 51 of this title, his rate of basic pay is determined under section 5337 of this title. However, for the purpose of section 5537 of this title, service in the position which was brought under this subchapter and chapter 51 of this title is deemed service under this subchapter and chapter 51 of this title.

(e) The rate of pay established for a teaching position as defined by section 901 of title 20 held by an individual who becomes subject to subsection (a) of this section is deemed increased by 20 percent to determine the yearly rate of pay of the position.

(f) An employee of a county committee established pursuant to section 590h(b) of title 16 may upon appointment to a position under the Department of Agriculture, subject to this subchapter, have his initial rate of basic pay fixed at the minimum rate of the appropriate grade, or at any step of such grade that does not exceed the highest previous rate of basic pay received by him during service with such county committee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 468; Pub. L. 90-103, title I, § 105, Oct. 11, 1967, 81 Stat. 257; Pub. L. 90-367, § 1, June 29, 1968, 82 Stat. 277; Pub L. 90-623, § 1(6), (24), Oct. 22, 1968, 82 Stat. 1312, 1314.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(d)	5 U.S.C. 1132	Oct. 28, 1949, ch. 782, § 802, 63 Stat. 969. Sept. 1, 1954, ch. 1208, § 112 (as applicable to § 802(b)), 68 Stat. 1108. May 29, 1958, Pub. L. 85-432, § 4(a), (b), 72 Stat. 151. July 31, 1959, Pub. L. 86-122, § 2(a), 73 Stat. 268. Oct. 11, 1962, Pub. L. 87-793, § 604(a), (b), 76 Stat. 847.
(e)	5 U.S.C. 2357	July 17, 1959, Pub. L. 86-91. § 9, 73 Stat. 216.

In subsection (b), the words "under any provision of law" are omitted from the second sentence as unnecessary.

In subsection (e), the words "as defined by section 901 of title 20" are added on authority of former section 2351, which section is scheduled for transfer to section 901 of title 20.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Subsec. (a). Pub. L. 90-623, § 1(6), substituted "title 40, appendix" for "the Appalachian Regional Development Act of 1965", "section 3128 of title 42, under section 3186(2) of that title" for "section 502 of the Public Works and Economic Development Act of 1965, under section 506(2) of such Act", and "6" for "six".

Subsec. (f). Pub. L. 90-623, § 1(24), substituted "section 590h(b) of title 16" for "section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))".

Pub. L. 90-367 added subsec. (f).

1967—Subsec. (a). Pub. L. 90-103 provided for treatment as a transfer from a position in the executive branch to which this subchapter does not apply of certain regional commission employees who were Federal employees immediately prior to employment by a commission and were employed within six months after separation from the commission in a position subject to this subchapter.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 6 of Pub. L. 90-623 provided that:

"(a) Sections 1-5 of this Act [amending this section and sections 559, 2108, 3102, 3502, 5314, 5315, 5316, 5352, 5353, 5516, 5521, 5527, 5537, 5546, 5724, 6104, 6305, 6312, 6323, 6324, 8143, 8191, 8331, and 8347 of this title, sections 101, 510, 815, 1124, 3534, 4342, 5149, 6483, 6954, and 9342 of Title 10, sections 101, 212, 205, 305, 306, 307, 308, 311, 406, 417, 554, 703, 904, 1001, and 1006 of Title 37, and sections 2727 and 2994b of Title 42, and repealing section 8339 note of this title] restate, without substantive change, the laws replaced by those sections on the effective date of this Act. Laws effective after June 30, 1968, that are inconsistent with this Act [Oct. 22, 1968] supersede it to the extent of the inconsistency.

"(b) References made by other laws, regulations, and orders to the laws restated by this Act are deemed to refer to the corresponding provisions of this Act.

"(c) Actions taken under the laws restated by this Act are deemed to have been taken under the corresponding provisions of this Act.

"(d) Sections 1(2) and 1(14) of this Act [amending sections 2108 and 5724 of this title] are effective as of September 11, 1967, for all purposes.

"(e) Sections 1(13)(B) and 1(17) of this Act [amending sections 5546(d) and 6323 of this title] are effective as of September 6, 1966, for all purposes."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540; title 40 App. section 109.

§ 5335. Periodic step-increases

(a) An employee paid on an annual basis, and occupying a permanent position within the scope of the General Schedule, who has not reached the maximum rate of pay for the grade in which his position is placed, shall be advanced in pay successively to the next higher rate within the grade at the beginning of the next pay period following the completion of—

(1) each 52 calendar weeks of service in pay rates 1, 2, and 3;

(2) each 104 calendar weeks of service in pay rates 4, 5, and 6; or

(3) each 156 calendar weeks of service in pay rates 7, 8, and 9;

subject to the following conditions:

(A) the employee did not receive an equivalent increase in pay from any cause during that period; and

(B) the work of the employee, except a hearing examiner appointed under section 3105 of this title, is of an acceptable level of competence as determined by the head of the agency.

(b) Under regulations prescribed by the Civil Service Commission, the benefit of successive step-increases shall be preserved for employees whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency.

(c) When a determination is made under subsection (a) of this section that the work of an employee is not of an acceptable level of competence, the employee is entitled to prompt written notice of that determination and an opportunity for reconsideration of the determination within his agency under uniform procedures prescribed by the Commission. If the determination is affirmed on reconsideration, the employee is entitled to appeal to the Commission. If the reconsideration or appeal results in a reversal of the earlier determination, the new determination supersedes the earlier determination and is deemed to have been made as of the date of the earlier determination. The authority of the Commission to prescribe procedures and the entitlement of the employee to appeal to the Commission do not apply to a determination of acceptable level of competence made by the Librarian of Congress.

(d) An increase in pay granted by statute is not an equivalent increase in pay within the meaning of subsection (a) of this section.

(e) This section does not apply to the pay of an individual appointed by the President, by and with the advice and consent of the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 469; Pub. L. 90-83, § 1(20), Sept. 11, 1967, 81 Stat. 199.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(c)	5 U.S.C. 1121	Oct. 11, 1962, Pub. L. 87-793, § 603 "Sec. 701", 76 Stat. 847.
(d)	5 U.S.C. 1123 (as applicable to 5 U.S.C. 1121).	Oct. 11, 1962, Pub. L. 87-793, § 603 "Sec. 703 (as applicable to § 701)", 76 Stat. 847.

In subsection (a), the words "General Schedule" are substituted for "compensation schedules fixed by this chapter" since the General Schedule is now the only compensation schedule in that chapter. The word "scheduled" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity.

In subsection (a)(B), the words "except a hearing examiner appointed under section 3105 of this title" are added on authority of the third sentence of former section 1010 and the fifth sentence of former section 1011, which are carried into sections 5362 and 559, respectively, and of section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Title VII (sections 701-705) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 967-969, as amended by the following Acts is omitted from the derivation and repealed (see Table II) as superseded by the Act of Oct. 11, 1962, Pub. L. 87-793, § 603, 76 Stat. 847, which is carried into this section and section 5336:

June 28, 1950, ch. 382, § 2, 64 Stat. 262.
Sept. 30, 1950, ch. 1123, §§ 9, 10, 64 Stat. 1100.
Oct. 24, 1951, ch. 554, § 1(e), 65 Stat. 613.
Sept. 1, 1954, ch. 1208, §§ 102(a), 103(a), 112 (less applicability to § 802(b)), 305(a), 68 Stat. 1105, 1108, 1113.
June 28, 1955, ch. 189, § 2(e), 69 Stat. 175.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5335(c)	5 App.: 1121(c)	Oct. 29, 1965, Pub. L. 89-301, § 3, 79 Stat. 1112.

The word "officer" is omitted as included in "employee", and the word "agency" is substituted for "department" to conform to the definition in 5 U.S.C. 5331.

Cross References

Coast Guard civilian teaching staff, see section 186 of Title 14, Coast Guard.

Hearing examiners—
- Additional requirements imposed by statute or otherwise recognized by law not limited or repealed by subsec. (a)(B) of this section, see section 559 of this title.
- Civil Service Commission, investigations, reports, and regulations for purposes of subsec. (a)(B) of this section, see section 1305 of this title.
- Subsequent statutes to be held to supersede or modify subsec. (a)(B) of this section only to the extent that they do so expressly, see section 559 of this title.

Performance ratings, see section 4301 et seq. of this title.

United States Maritime Service administrative enrollees, service credit toward one step increase for service rendered prior to acquisition of civil service status, see section 1126 of Title 46, Shipping.

Section Referred to in Other Sections

This section is referred to in sections 559, 1305, 5303, 5305, 5336 of this title; title 10 sections 4540, 7212, 9540; title 13 section 24.

§ 5336. Additional step-increases

(a) Within the limit of available appropriations and under regulations prescribed by the Civil Service Commission, the head of each agency may grant additional step-increases in recognition of high quality performance above that ordinarily found in the type of position concerned. However, an employee is eligible under this section for only one additional step-increase within any 52-week period.

(b) A step-increase under this section is in addition to those under section 5335 of this title and is not an equivalent increase in pay within the meaning of section 5335(a) of this title.

(c) This section does not apply to the pay of an individual appointed by the President, by and with the advice and consent of the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 469.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 1122	Oct. 11, 1962, Pub. L. 87-793, § 603 "Sec. 702", 76 Stat. 847.
(c)	5 U.S.C. 1123 (less applicability to 5 U.S.C. 1121).	Oct. 11, 1962, Pub. L. 87-793, § 603 "Sec. 703 (less applicability to § 701)", 76 Stat. 847.

For repeal of Title VII (sections 701-705) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 967-969, as amended, see revision note for section 5335.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Coast Guard civilian teaching staff, see section 186 of Title 14, Coast Guard.

Incentive awards, see section 4501 et seq. of this title.

Performance ratings, see section 4301 et seq. of this title.

United States Maritime Service administrative enrollees, service credit toward one longevity step increase for service rendered prior to acquisition of civil service status, see section 1126 of Title 46, Shipping.

Section Referred to in Other Sections

This section is referred to in title 10 sections 4540, 7212, 9540; title 13 section 24.

§ 5337. Pay savings

(a) Subject to the limitation in subsection (b) of this subsection, an employee—

(1) who is reduced in grade from a grade of the General Schedule;

(2) who holds a career or career-conditional appointment in the competitive service, or an appointment of equivalent tenure in the excepted service or in the government of the District of Columbia;

(3) whose reduction in grade is not (A) caused by a demotion for personal cause, (B) at his request, (C) effected in a reduction in force due to lack of funds or curtailment of work, or (D) with respect to a temporary promotion occurring after September 20, 1961, a condition of the temporary promotion to a higher grade;

(4) who, for 2 continuous years immediately before the reduction in grade, served (A) in the same agency and (B) in a grade or grades higher than the grade to which demoted; and

(5) whose work performance during the 2-year period is satisfactory or better;

is entitled to basic pay at the rate to which he was entitled immediately before the reduction in grade (including each increase in rate of basic pay provided by statute) for a period of 2 years from the effective date of the reduction in grade, so long as he—

(A) continues in the same agency without a break in service of one workday or more;

(B) is not entitled to a higher rate of basic pay by operation of this subchapter or chapter 51 of this title; and

(C) is not demoted or reassigned (i) for personal cause, (ii) at his request, or (iii) in a reduction in force due to lack of funds or curtailment of work.

(b) The rate of basic pay to which an employee is entitled under subsection (a) of this section with respect to each reduction in grade to which that subsection applies may not exceed the sum of—

(1) the minimum rate of the grade to which he is reduced under each reduction in grade to which that subsection applies (including each increase in rate of basic pay provided by statute); and

(2) the difference between his rate immediately before the first reduction in grade to which that subsection applies (including each increase in rate of basic pay provided by statute) and the minimum rate of that grade which is three grades lower than the grade from which he was reduced under the first of the reductions in grade (including each increase in the rate of basic pay provided by statute).

(c) Under regulations prescribed by the Civil Service Commission consistent with the provisions of subsections (a) and (b) of this section, an employee who is reduced to a grade of the General Schedule from a position to which this subchapter does not apply is entitled to a retained scheduled rate of pay.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 470; Pub. L. 92-392, § 3, Aug. 19, 1972, 86 Stat. 573.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1107	June 18, 1956, ch. 402, 70 Stat. 291. Aug. 23, 1958, Pub. L. 85-737, § 1, 72 Stat. 830. Sept. 21, 1961, Pub. L. 87-270, § 101(a), 75 Stat. 567. Oct. 11, 1962, Pub. L. 87-793, § 605, 76 Stat. 848.

In subsection (a)(1), the words "at any time after June 17, 1956" are omitted as obsolete. The words "in the General Schedule" are substituted for "of a basic compensation schedule of this chapter" since the General Schedule is now the only basic compensation schedule in that chapter. In subsection (a)(2), the words "on the effective date of such reduction in grade" are omitted as unnecessary. The words "a position outside the competitive civil service and the excepted service as an officer or employee of the Library of Congress, of the Architect of the Capitol, of the Botanic Garden," are omitted as contained in "the excepted service" because of the definition of the excepted service in section 2103. The words "or as of the first pay period which begins after August 23, 1958, whichever is later" and "or immediately following the first day of such first pay period, as applicable" are omitted as obsolete.

In subsection (b), the reference in former section 1107(c) to "subsection (b) of this section" is omitted as unnecessary (see next paragraph). The words "occurring on or after July 1, 1954" are omitted as obsolete. The word "scheduled" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity.

Subsection (b) of former section 1107, relating to pay saving for persons reduced in grade during the period beginning July 1, 1954, and ending July 17, 1956, is omitted as obsolete and executed. Any existing rights thereunder are preserved by technical section 8.

Subsection (d) of former section 1107, authorizing the Commission to issue regulations, is omitted in view of the authority to regulate contained in section 5338.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-392, § 3(1), substituted "to which that subsection applies" for "to which this section applies" in introductory text and cls. (1) and (2).

Subsec. (c). Pub. L. 92-392, § 3(2), added subsec. (c).

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5107, 5334, 8704 of this title; title 10 sections 4540, 7212, 9540.

§ 5338. Regulations

The Civil Service Commission may prescribe regulations necessary for the administration of this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 470.)

HISTORICAL AND REVISION NOTES

The section is added on authority of former sections 1072 and 1072a, which are carried into section 5115.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 4540, 7212, 9540.

SUBCHAPTER IV—PREVAILING RATE SYSTEMS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 2105, 5541, 7154 of this title.

§ 5341. Policy

It is the policy of Congress that rates of pay of prevailing rate employees be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and be based on principles that—

(1) there will be equal pay for substantially equal work for all prevailing rate employees who are working under similar conditions of employment in all agencies within the same local wage area;

(2) there will be relative differences in pay within a local wage area when there are substantial or recognizable differences in duties, responsibilities, and qualification requirements among positions;

(3) the level of rates of pay will be maintained in line with prevailing levels for comparable work within a local wage area; and

(4) the level of rates of pay will be maintained so as to attract and retain qualified prevailing rate employees.

(Added Pub. L. 92-392, § 1(a), Aug. 19, 1972, 86 Stat. 564.)

PRIOR PROVISIONS

A prior section 5341, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471; Pub. L. 90-83, § 1(97), Sept. 11, 1967, 81 Stat. 220; Pub. L. 90-560, § 4, Oct. 12, 1968, 82 Stat. 997, provided prevailing rate system for trades and crafts and is now covered by sections 5343 (c), (d) and 5349(a) of this title.

Effective Date

Section 15(a) of Pub. L. 92-392 provided that: "The provisions of this Act [enacting this subchapter and section 5550 of this title, amending sections 2105(c)(1), 5337, 5541(2)(xi), 5544(a), 5548, 6101(a)(1), 7154(b), and 8704(d)(2) of this title, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title and sections 60a-1 and 60a-2 of Title 2] are effective on the first day of the first applicable pay period which begins on or after the ninetieth day after the date of enactment of this Act [Aug. 19, 1972], except that, in the case of those employees referred to in section 5342(a)(2)(B) and (C) of title 5, United States Code (as amended by the first section of this Act), such provisions are effective on the first day of the first applicable pay period which begins on or after the one hundred and eightieth day after such date of enactment or on such earlier date (not earlier than the ninetieth day after such date of enactment) as the Civil Service Commission may prescribe. Notwithstanding the provisions of this subsection, section 5343(e)(1)(D) and (E) and (e)(2)(C), as enacted by the first section of this Act, shall not be effective until the first day of the first pay period commencing after (1) the date on which the President ceases to exercise his authority under the Economic Stabilization Act of 1970 [set out as note under section 1904 of Title 12] to stabilize wages and salaries, or (2) April 30, 1973, whichever occurs first."

Repeals

Section 13 of Pub. L. 92-392 provided that:

"(a) All laws or parts of laws inconsistent with this Act [enacting this subchapter and section 5550 of this title, amending sections 2105(c)(1), 5337, 5541(2)(xi), 5544(a), 5548, 6101(a)(1), 7154(b), and 8704(d)(2) of this title, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title and section 60a of Title 2] are hereby repealed to the extent of such inconsistency.

"(b) Subsection (a) of this section does not repeal or otherwise affect section 5102(d) of title 5, United States Code, section 305 of title 44 of such Code, or the provisions contained in section 180 of title 31, United States Code."

Section Referred to in Other Sections

This section is referred to in title 10 sections 7212, 9540; title 41 section 351.

§ 5342. Definitions; application

(a) For the purpose of this subchapter—

(1) "agency" means an Executive agency; but does not include—

(A) a Government controlled corporation;
(B) the Tennessee Valley Authority;
(C) the Alaska Railroad;
(D) the Virgin Islands Corporation;
(E) the Atomic Energy Commission;
(F) the Central Intelligence Agency;
(G) the Panama Canal Company;
(H) the National Security Agency, Department of Defense; or
(I) the Bureau of Engraving and Printing, except for the purposes of section 5349 of this title;

(2) "prevailing rate employee" means—

(A) an individual employed in or under an agency in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement;

(B) an employee of a nonappropriated fund instrumentality described by section 2105(c) of this title who is employed in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or laboring experience and knowledge as the paramount requirement; and

(C) an employee of the Veterans' Canteen Service, Veterans' Administration, excepted from chapter 51 of this title by section 5102 (c)(14) of this title who is employed in a recognized trade or craft, or other skilled mechanical craft, or in an unskilled, semiskilled, or skilled manual labor occupation, and any other individual, including a foreman and a supervisor, in a position having trade, craft, or labor experience and knowledge as the paramount requirement; and

(3) "position" means the work, consisting of duties and responsibilities, assignable to a prevailing rate employee.

(b)(1) Except as provided by paragraphs (2) and (3) of this subsection, this subchapter applies to all prevailing rate employees and positions in or under an agency.

(2) This subchapter does not apply to employees and positions described by section 5102(c) of this title other than by—

(A) paragraph (7) of that section to the extent that such paragraph (7) applies to employees and positions other than employees and positions of the Bureau of Engraving and Printing; and

(B) paragraph (14) of that section.

(3) This subchapter, except section 5348, does not apply to officers and members of crews of vessels excepted from chapter 51 of this title by section 5102(c)(8) of this title.

(c) Each prevailing rate employee employed within any of the several States or the District of Columbia shall be a United States citizen or a bona fide resident of one of the several States or the District of Columbia unless the Secretary of Labor certifies that no United States citizen or bona fide resident of one of the several States or the District of Columbia is available to fill the particular position.

(Added Pub. L. 92-392, § 1(a), Aug. 19, 1972, 86 Stat. 564.)

Prior Provisions

A prior section 5342, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471, provided for crews of vessels and is now covered by section 5348(a), (b) of this title.

Provisions similar to those comprising subsec. (b) of this section were contained in Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471 (formerly classified to section 5342 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

Effective Date

Section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, except that in the case of employees referred to in subsec. (a)(2)(B) and (C) section effective on first day of first applicable pay period beginning on or after the 180th day after Aug. 19, 1972, or on such earlier date (not earlier than 90th day after Aug. 19, 1972) as Civil Service Commission may prescribe, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5343, 5550 of this title; title 10 sections 7212, 9540.

§ 5343. Prevailing rate determinations; wage schedules; night differentials

(a) The pay of prevailing rate employees shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided by section 206(a)(1) of title 29. To carry out this subsection—

(1) the Civil Service Commission shall define, as appropriate—

(A) with respect to prevailing rate employees other than prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the boundaries of—

(i) individual local wage areas for prevailing rate employees having regular wage schedules and rates; and

(ii) wage areas for prevailing rate employees having special wage schedules and rates;

(B) with respect to prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the boundaries of—

(i) individual local wage areas for prevailing rate employees under such paragraphs having regular wage schedules and rates (but such boundaries shall not extend beyond the immediate locality in which the particular prevailing rate employees are employed); and

(ii) wage areas for prevailing rate employees under such paragraphs having special wage schedules and rates;

(2) the Civil Service Commission shall designate a lead agency for each wage area;

(3) subject to paragraph (5) of this subsection, and subsections (c)(1)-(3) and (d) of this section, a lead agency shall conduct wage surveys, analyze wage survey data, and develop and establish appropriate wage schedules and rates for prevailing rate employees;

(4) the head of each agency having prevailing rate employees in a wage area shall apply, to the prevailing rate employees of that agency in that area, the wage schedules and rates established by the lead agency, or by the Civil Service Commission, as appropriate, for prevailing rate employees in that area; and

(5) the Civil Service Commission shall establish wage schedules and rates for prevailing rate employees who are United States citizens employed in any area which is outside the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, the territories and possessions of the United States, and the Trust Territory of the Pacific Islands.

(b) The Civil Service Commission shall schedule full-scale wage surveys every 2 years and shall schedule interim surveys to be conducted between each 2 consecutive full-scale wage surveys. The Commission may schedule more frequent surveys when conditions so suggest.

(c) The Civil Service Commission, by regulation, shall prescribe practices and procedures for conducting wage surveys, analyzing wage survey data, developing and establishing wage schedules and rates, and administering the prevailing rate system. The regulations shall provide—

(1) that, subject to subsection (d) of this section, wages surveyed be those paid by private employers in the wage area for similar work performed by regular full-time employees, except that, for prevailing rate employees under paragraphs (B) and (C) of section 5342(a)(2) of this title, the wages surveyed shall be those paid by private employers to full-time employees in a representative number of retail, wholesale, service, and recreational establishments similar to those in which such prevailing rate employees are employed;

(2) for participation at all levels by representatives of organizations accorded recognition as the representatives of prevailing rate employees in every phase of providing an equitable system for fixing and adjusting the rates of pay for prevailing rate employees, including the planning of the surveys, the drafting of specifications, the selection of data collectors, the collection and the analysis of the data, and the submission or recommendations to the head of the lead agency for wage schedules and rates and for special wage schedules and rates where appropriate;

(3) for requirements for the accomplishment of wage surveys and for the development of wage schedules and rates for prevailing rate employees, including, but not limited to—

(A) nonsupervisory and supervisory prevailing rate employees paid under regular wage schedules and rates;

(B) nonsupervisory and supervisory prevailing rate employees paid under special wage schedules and rates; and

(C) nonsupervisory and supervisory prevailing rate employees described under paragraphs (B) and (C) of section 5342(a)(2) of this title;

(4) for proper differentials, as determined by the Commission, for duty involving unusually severe working conditions or unusually severe hazards;

(5) rules governing the administration of pay for individual employees on appointment, transfer, promotion, demotion, and other similar changes in employment status; and

(6) for a continuing program of maintenance and improvement designed to keep the prevailing rate system fully abreast of changing conditions, practices, and techniques both in and out of the Government of the United States.

(d)(1) A lead agency, in making a wage survey, shall determine whether there exists in the local wage area a number of comparable positions in private industry sufficient to establish wage schedules and rates for the principal types of positions for which the survey is made. The determination shall be in writing and shall take into consideration all relevant evidence, including evidence submitted by employee organizations recognized as representative of prevailing rate employees in that area.

(2) When a lead agency determines that there is a number of comparable positions in private industry insufficient to establish the wage schedules and rates, such agency shall establish those schedules and rates on the basis of—

(A) local private industry rates; and

(B) rates paid for comparable positions in private industry in the nearest wage area that such agency determines is most similar in the nature of its population, employment, manpower, and industry to the local wage area for which the wage survey is being made.

(e)(1) Each grade of a regular wage schedule for nonsupervisor prevailing rate employees shall have 5 steps with—

(A) the first step at 96 percent of the prevailing rate;

(B) the second step at 100 percent of the prevailing rate;

(C) the third step at 104 percent of the prevailing rate;

(D) the fourth step at 108 percent of the prevailing rate; and

(E) the fifth step at 112 percent of the prevailing rate.

(2) A prevailing rate employee under a regular wage schedule who has a work performance rating of satisfactory or better, as determined by the head of the agency, shall advance automatically to the next higher step within the grade at the beginning of the first applicable pay period following his completion of—

(A) 26 calendar weeks of service in step 1;

(B) 78 calendar weeks of service in step 2; and

(C) 104 calendar weeks of service in each of steps 3 and 4.

(3) Under regulations prescribed by the Civil Service Commission, the benefits of successive step increases shall be preserved for prevailing rate employees under a regular wage schedule whose continuous service is interrupted in the public interest by service with the armed forces or by service in essential non-Government civilian employment during a period of war or national emergency.

(4) Supervisory wage schedules and special wage schedules authorized under subsection (c)(3) of this section may have single or multiple rates or steps according to prevailing practices in the industry on which the schedule is based.

(f) A prevailing rate employee is entitled to pay at his scheduled rate plus a night differential—

(1) amounting to 7½ percent of that scheduled rate for regularly scheduled nonovertime work a majority of the hours of which occur between 3 p.m. and midnight; and

(2) amounting to 10 percent of that scheduled rate for regularly scheduled nonovertime work a majority of the hours of which occur between 11 p.m. and 8 a.m.

A night differential under this subsection is a part of basic pay.

(Added Pub. L. 92-392, § 1(a), Aug. 19, 1972, 86 Stat. 566.)

PRIOR PROVISIONS

A prior section 5343, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471, related to effective date of pay increases and is now covered by section 5344(a) of this title.

Provisions similar to those comprising part of first sentence of subsec. (c) and subsec. (d) of this section were contained in Pub. L. 90-560, § 4, Oct. 12, 1968, 82 Stat. 997 (formerly classified to section 5341(c) of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

EFFECTIVE DATE

Section other than subsec. (e)(1)(D), (E), (2)(C) of this section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, and such subsec. (a)(1)(D), (E), (2)(C) not effective until first day of first pay period commencing after the date on which the President ceases to exercise his authority under the Economic Stabilization Act of 1970 to stabilize wages and salaries, or Apr. 30, 1973, whichever occurs first, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

CONVERSION RULES FOR WAGE SCHEDULE; SERVICE FOR ONE STEP INCREASE; PROHIBITION OF DECREASE IN BASIC PAY RATE; RETAINED PAY CONTINUED

Section 9(a) of Pub. L. 92-392 provided that:

"(1) Except as provided by this subsection, an employee's initial rate of pay on conversion to a wage schedule established pursuant to the amendments made by this Act [see Effective Date note under section 5341 of this title] shall be determined under conversion rules prescribed by the Civil Service Commission. Service by an employee in a grade of a wage schedule performed before the effective date of the conversion of the employee to a wage schedule established pursuant to the amendments made by this Act shall be counted toward not to exceed one step increase under the time in step provisions of section 5343(e)(2) of title 5, United States Code, as amended by the first section of this Act [subsec. (e)(2) of this section].

"(2) In the case of any employee described in section 2105(c), 5102(c)(7), (8), or (14) of title 5, United States Code, who is in the service as such an employee immediately before the effective date, with respect to him, of the amendments made by this Act [see Effective Date note under section 5341 of this title], such amendments shall not be construed to decrease his rate of basic pay in effect immediately before the date [see Effective Date note under section 5341 of this title] on which such amendments become effective with respect to him. In addition, if an employee is receiving retained pay by virtue of law or agency policy immediately before the date on which the first wage schedule applicable to him under this Act is effective, he shall continue to retain that pay in accordance with the specific instructions under which the retained pay was granted until he leaves his position or until he becomes entitled to a higher rate."

LABOR CONTRACTS PERTAINING TO WAGES, TERMS AND CONDITIONS OF EMPLOYMENT, AND OTHER EMPLOYMENT BENEFITS

Section 9(b) of Pub. L. 92-392 provided that.

"The amendments made by this Act [enacting this subchapter and section 5550 of this title, amending sections 2105(c)(1), 5337, 5541(2)(xi), 5544(a), 5548, 6101(a)(1), 7154(b), and 8704(d)(2) of this title, repealing section 6102 of this title, and enacting provisions set out as notes under sections 5341 and 5343 of this title and section 60a of Title 2] shall not be construed to—

"(1) abrogate, modify, or otherwise affect in any way the provisions of any contract in effect on the date of enactment of this Act [Aug. 19, 1972] pertaining to the wages, the terms and conditions of employment, and other employment benefits, or any of the foregoing matters, for Government prevailing rate employees and resulting from negotiations between Government agencies and organizations of Government employees;

"(2) nullify, curtail, or otherwise impair in any way the right of any party to such contract to enter into negotiations after the date of enactment of this Act [Aug. 19, 1972] for the renewal, extension, modification, or improvement of the provisions of such contract or for the replacement of such contract with a new contract; or

"(3) nullify, change, or otherwise affect in any way after such date of enactment [Aug. 19, 1972] any agreement, arrangement, or understanding in effect on such date [Aug. 19, 1972] with respect to the various items of subject matter of the negotiations on which any such contract in effect on such date [Aug. 19, 1972] is based or prevent the inclusion of such items of subject matter in connection with the renegotiation of any such contract, or the replacement of such contract with a new contract, after such date [Aug. 19, 1972]."

WAGE SURVEY

Section 15(b) of Pub. L. 92-392 provided that: "A wage survey conducted by an agency before the effective date (with respect to employees covered by that wage survey) of this Act [see note under section 5341 of this title], for a wage schedule which becomes effective after that effective date [Aug. 19, 1972], is deemed to meet the requirement in this Act for a survey by a lead agency."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5544, 6101 of this title.

§ 5344. Effective date of wage increase; retroactive pay

(a) Each increase in rates of basic pay granted, pursuant to a wage survey, to prevailing rate employees is effective not later than the first day of the first pay period which begins on or after the 45th day, excluding Saturdays and Sundays, following the date the wage survey is ordered to be made.

(b) Retroactive pay is payable by reason of an increase in rates of basic pay referred to in subsection (a) of this section only when—

(1) the individual is in the service of the Government of the United States, including service in the armed forces, or the government of the District of Columbia on the date of the issuance of the order granting the increase; or

(2) the individual retired or died during the period beginning on the effective date of the increase and ending on the date of issuance of the order granting the increase, and only for services performed during that period.

For the purpose of this subsection, service in the armed forces includes the period provided by statute for the mandatory restoration of the individual to a position in or under the Government of the United States or the government of the District of Columbia after he is relieved from training and service in the armed forces or discharged from hospitalization following that training and service.

(Added Pub. L. 92-392, § 1(a), Aug. 19, 1972, 86 Stat. 568.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471 (formerly classified to section 5343 of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

CROSS REFERENCES

Settlement of accounts, money due as including retroactive pay under subsec. (a)(2) of this section, see section 5581 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5349, 8331, 8704 of this title.

§ 5345. Retained rate of pay on reduction in grade or reassignment

(a) Under regulations prescribed by the Civil Service Commission, and subject to the limitation in subsection (b) of this section, a prevailing rate employee—

(1) who is reduced in grade or reassigned to a wage schedule position having an established maximum scheduled rate of pay which is less than the employee's then existing scheduled rate of pay;

(2) who holds a career or a career-conditional appointment in the competitive service, or an appointment of equivalent tenure in the excepted service;

(3) whose reduction in grade or reassignment is not (A) caused by a demotion for personal cause, (B) at his request, (C) effected in a reduction in force due to lack of funds or curtailment of work, or (D) with respect to a temporary promotion, a condition of the temporary promotion to a higher grade;

(4) who, for 2 continuous years immediately before the reduction in grade or reassignment, served (A) in the same agency and (B) in a grade or grades higher than the grade to which demoted; and

(5) whose work performance during the 2-year period is satisfactory or better;

is entitled to basic pay at the scheduled rate to which he was entitled immediately before the reduction in grade or reassignment (including each increase in scheduled rate of pay granted pursuant to a wage survey) for a period of 2 years from the effective date of the reduction in grade or reassignment, so long as he—

(A) continues in the same agency without a break in service of one workday or more;

(B) is not entitled to a higher scheduled rate of pay by operation of this subchapter; and

(C) is not demoted or reassigned (i) for personal cause, (ii) at his request, or (iii) in a reduction in force due to a lack of funds or curtailment of work.

(b) The scheduled rate of pay to which a prevailing rate employee is entitled under subsection (a) of this section with respect to each reduction in grade or reassignment to which that subsection applies may not exceed the sum of—

(1) the minimum scheduled rate of the grade to which he is reduced or reassigned under each reduction in grade or reassignment to which that subsection applies (including each increase in scheduled rate of pay granted pursuant to a wage survey); and

(2) the difference between his scheduled rate immediately before the first reduction in grade or reassignment to which that subsection applies (including each increase in scheduled rate of pay granted pursuant to a wage survey) and the minimum scheduled rate of that grade which is three grades lower than the grade from which he was reduced or reassigned under the first of the reductions in grade or reassignment (including each increase in the scheduled rate of pay granted pursuant to a wage survey).

(c) Under regulations prescribed by the Commission, a prevailing rate employee who is reduced in grade or reassigned to a wage schedule position from another local wage area, or from another wage schedule, or from a position not subject to this subchapter, is entitled to a retained scheduled rate of pay.

(d) The Commission may prescribe regulations governing the retention of the scheduled rate of pay of an employee who together with his position is brought under this subchapter. If an employee so entitled to a retained rate under these regulations is later demoted to a position under this subchapter, his scheduled rate of pay is determined under subsections (a) and (b) of this section. For the purpose of those subsections, service in the position which was brought under this subchapter is deemed service under this subchapter.

(Added Pub. L. 92-392, § 1(a), Aug. 19, 1972, 86 Stat. 569.)

Prior Provisions

A prior section 5345, added Pub. L. 90-206, title II, § 223(a), Dec. 16, 1967, 81 Stat. 641, provided for position classification appeals and is now covered by section 5346(c) of this title.

Effective Date

Section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

Section Referred to in Other Sections

This section is referred to in section 5349 of this title.

§ 5346. Job grading system

(a) The Civil Service Commission, after consulting with the agencies and with employee organizations, shall establish and maintain a job grading system for positions to which this subchapter applies. In carrying out this subsection, the Commission shall—

(1) establish the basic occupational alinement and grade structure or structures for the job grading system;

(2) establish and define individual occupations and the boundaries of each occupation;

(3) establish job titles within occupations;

(4) develop and publish job grading standards; and

(5) provide a method to assure consistency in the application of job standards.

(b) The Commission, from time to time, shall review such numbers of positions in each agency as will enable the Commission to determine whether the agency is placing positions in occupations and grades in conformance with or consistently with published job standards. When the Commission finds that a position is not placed in its proper occupation and grade in conformance with published standards or that a position for which there is no published standard is not placed in the occupation and grade consistently with published standards, it shall, after consultation with appropriate officials of the agency concerned, place the position in its appropriate occupation and grade and shall certify this action to the agency. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(c) On application, made in accordance with regulations prescribed by the Commission, by a prevailing rate employee for the review of the action of an employing agency in placing his position in an occupation and grade for pay purposes, the Commission shall—

(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the position;

(2) decide whether the position has been placed in the proper occupation and grade; and

(3) approve, disapprove, or modify, in accordance with its decision, the action of the employing agency in placing the position in an occupation and grade.

The Commission shall certify to the agency concerned its action under paragraph (3) of this subsection. The agency shall act in accordance with the certificate, and the certificate is binding on all administrative, certifying, payroll, disbursing, and accounting officials.

(Added Pub. L. 90-206, title II, § 223(a), Dec. 16, 1967, 81 Stat. 641, § 5345, renumbered and amended Pub. L. 92-392, § 1(a), Aug. 19, 1972, 86 Stat. 570.)

Amendments

1972—Subsecs. (a), (b). Pub. L. 92-392 added subsecs. (a) and (b).

Subsec. (c). Pub. L. 92-392 designated existing provisions as subsec. (c) and substituted in introductory text "Commission", "a prevailing rate of employee" and "in placing his position in an occupation and grade" for "Civil Service Commission", "an employee subject to section 5341(a) of this title" and "in classifying his position", in par. (2) "placed in the proper occupation and grade" for "properly classified", in par. (3) "in placing the position in an occupation and grade" for "in classifying the position" and in last sentence "subsection" for "section".

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub.

L. 92-392, set out as a note under section 5341 of this title.

§ 5347. Federal Prevailing Rate Advisory Committee

(a) There is established a Federal Prevailing Rate Advisory Committee composed of—

(1) the Chairman, who shall not hold any other office or position in the Government of the United States or the government of the District of Columbia, and who shall be appointed by the Chairman of the Civil Service Commission for a 4-year term;

(2) one member from the Office of the Secretary of Defense, designated by the Secretary of Defense;

(3) two members from the military departments, designated by the Chairman of the Civil Service Commission;

(4) one member, designated by the Chairman of the Civil Service Commission from time to time from an agency (other than the Department of Defense, a military department, and the Civil Service Commission);

(5) an employee of the Civil Service Commission, designated by the Chairman of the Civil Service Commission; and

(6) five members, designated by the Chairman of the Civil Service Commission, from among the employee organizations representing, under exclusive recognition of the Government of the United States, the largest numbers of prevailing rate employees.

(b) In designating members from among employee organizations under subsection (a)(6) of this section, the Chairman of the Civil Service Commission shall designate, as nearly as practicable, a number of members from a particular employee organization in the same proportion to the total number of employee representatives appointed to the Committee under subsection (a)(6) of this section as the number of prevailing rate employees represented by such organization is to the total number of prevailing rate employees. However, there shall not be more than two members from any one employee organization nor more than four members from a single council, federation, alliance, association, or affiliation of employee organizations.

(c) Every 2 years the Chairman of the Civil Service Commission shall review employee organization representation to determine adequate or proportional representation under the guidelines of subsection (b) of this section.

(d) The members from the employee organizations serve at the pleasure of the Chairman of the Civil Service Commission.

(e) The Committee shall study the prevailing rate system and other matters pertinent to the establishment of prevailing rates under this subchapter and, from time to time, advise the Civil Service Commission thereon. Conclusions and recommendations of the Committee shall be formulated by majority vote. The Chairman of the Committee may vote only to break a tie vote of the Committee. The Committee shall make an annual report to the Commission and the President for transmittal to Congress, including recommendations and other matters considered appropriate. Any member of the Committee may include in the annual report recommendations and other matters he considers appropriate.

(f) The Committee shall meet at the call of the Chairman. However, a special meeting shall be called by the Chairman if 5 members make a written request to the Chairman to call a special meeting to consider matters within the purview of the Committee.

(g) Members of the Committee described in paragraphs (2)-(5) of subsection (a) of this section serve without additional pay. The Chairman is entitled to a rate of pay equal to the maximum rate currently paid, from time to time, under the General Schedule. Members who represent employee organizations are not entitled to pay from the Government of the United States for services rendered to the Committee.

(h) The Civil Service Commission shall provide such clerical and professional personnel as the Chairman of the Committee considers appropriate and necessary to carry out its functions under this subchapter. Such personnel shall be responsible to the Chairman of the Committee.

(Added Pub. L. 92-392, § 1(a), Aug. 19, 1972, 86 Stat. 571.)

Effective Date

Section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

§ 5348. Crews of vessels

(a) Except as provided by subsections (b) and (c) of this section, the pay of officers and members of crews of vessels excepted from chapter 51 of this title by section 5102(c)(8) of this title shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and practices in the maritime industry.

(b) Vessel employees of the Panama Canal Company may be paid in accordance with the wage practices of the maritime industry.

(c) Vessel employees in an area where inadequate maritime industry practice exists and vessel employees of the Corps of Engineers shall have their pay fixed and adjusted under the provisions of this subchapter other than this section, as appropriate.

(Pub. L. 89-544, Sept. 6, 1966, 80 Stat. 471, § 5342, renumbered and amended Pub. L. 92-392, § 1(a), Aug. 19, 1972, 86 Stat. 572.)

Amendments

1972—Subsec. (a). Pub. L. 92-392 inserted reference to subsection (c) of this section.

Subsec. (c). Pub. L. 92-392 added subsec. (c).

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

Section Referred to in Other Sections

This section is referred to in section 5342 of this title.

§ 5349. Prevailing rate employees; legislative, judicial, Bureau of Engraving and Printing, and government of the District of Columbia

(a) The pay of employees, described under section 5102(c)(7) of this title, in the Administrative Office of the United States Courts, the Library of Congress, the Botanic Garden, the Government Printing Office, the Office of the Architect of the Capitol, the Bureau of Engraving and Printing, and the government of the District of Columbia, shall be fixed and adjusted from time to time as nearly as is consistent with the public interest in accordance with prevailing rates and in accordance with such provisions of this subchapter, including the provisions of section 5344, relating to retroactive pay, and section 5345, relating to retention of pay, as the pay-fixing authority of each such agency may determine. Subject to section 213(f) of title 29, the rates may not be less than the appropriate rates provided for by section 206(a)(1) of title 29. If the pay-fixing authority concerned determines that the provisions of section 5345 of this title should apply to any employee under his jurisdiction, then the employee concerned shall be deemed to have satisfied the requirements of paragraph (2) of section 5345(a) of this title if the tenure of his appointment is substantially equivalent to the tenure of any appointment referred to in such paragraph.

(b) Subsection (a) of this section does not modify or otherwise affect section 5102(d) of this title, section 305 of title 44, and section 180 of title 31.

(Added Pub. L. 92-392, § 1(a), Aug. 19, 1972, 86 Stat. 572.)

PRIOR PROVISIONS

Provisions similar to those comprising subsec. (a) of this section were contained in Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 471; Pub. L. 90-83, § 1(97), Sept. 11, 1967, 81 Stat. 220 (formerly classified to section 5341(a) of this title) prior to the general amendment of this subchapter by section 1(a) of Pub. L. 92-392.

EFFECTIVE DATE

Section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5342, 5544, 6101, 8704 of this title.

SUBCHAPTER V—STUDENT-EMPLOYEES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5102 of this title.

§ 5351. Definitions

For the purpose of this subchapter—

(1) "agency" means an Executive agency, a military department, and the government of the District of Columbia; and

(2) "student-employee" means—

(A) a student nurse, medical or dental intern, resident-in-training, student dietitian, student physical therapist, and student occupational therapist, assigned or attached to a hospital, clinic, or medical or dental laboratory operated by an agency; and

(B) any other student-employee, assigned or attached primarily for training purposes to a hospital, clinic, or medical or dental laboratory operated by an agency, who is designated by the head of the agency with the approval of the Civil Service Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1052	Aug. 4, 1947, ch. 452, § 2, 61 Stat. 727.

The section is restated in definition form. In paragraph (1), the words "an Executive agency, a military department" are coextensive with and substituted for "department, agency, or instrumentality of the Federal Government" in view of the definitions in sections 105 and 102.

The exception from the Classification Act of 1923, as amended, is omitted as obsolete and superseded by the Classification Act of 1949, as amended, which is carried into this title. The present exception from the Classification Act of 1949, as amended, is carried into section 5102(c)(16).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Premium pay employee, exclusion of student-employee, see section 5541 of this title.

Retirement, creditable service of student-employees as defined by this section, see section 8332 of this title.

Student employees covered by program of compensation for work injuries suffered by government employees, see section 8144 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5541, 8144, 8331, 8332, 8501 of this title; title 26 section 3121; title 42 section 410.

§ 5352. Stipends

The head of each agency, and the District of Columbia Council with respect to the government of the District of Columbia, shall fix the stipends of its student-employees. The stipend may not exceed the applicable maximum prescribed by the Civil Service Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472; Pub. L. 90-623, § 1(7), Oct. 22, 1968, 82 Stat. 1312.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1051 (1st sentence).	Aug. 4, 1947, ch. 452, § 3 (1st sentence), 61 Stat. 727.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Pub. L. 90-623 inserted ", and the District of Columbia Council with respect to the government of the District of Columbia," following "head of each agency" and substituted "its" for "his".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct.

22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

Transfer of Functions

The District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, was abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, classified to section 1-131 of the District of Columbia Code, and replaced by the Council of the District of Columbia, as provided by Pub. L. 93-198, title IV, § 401, Dec. 24, 1973, 87 Stat. 785, classified to section 1-141 of the District of Columbia Code.

Section Referred to in D.C. Code

This section is referred to in section 32-334 of the District of Columbia Code.

§ 5353. Quarters, subsistence, and laundry

An agency may provide living quarters, subsistence, and laundering to student-employees while at the hospitals, clinics, or laboratories. The reasonable value of the accommodations, when furnished, shall be deducted from the stipend of the student- employee. The head of the agency concerned, and the District of Columbia Council with respect to the government of the District of Columbia, shall fix the reasonable value of the accommodations at an amount not less than the lowest deduction applicable to regular employees at the same hospital, clinic, or laboratory for similar accommodations.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472; Pub. L. 90-623, § 1(8), Oct. 22, 1968, 82 Stat. 1312.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1051 (less 1st sentence).	Aug. 4, 1947, ch. 452, § 3 (less 1st sentence), 61 Stat. 727.

The section is restated for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1968—Pub. L. 90-623 inserted ", and the District of Columbia Council with respect to the government of the District of Columbia," following "head of the agency concerned".

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

Transfer of Functions

The District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, was abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, classified to section 1-131 of the District of Columbia Code, and replaced by the Council of the District of Columbia, as provided by Pub. L. 93-198, title IV, § 401, Dec. 24, 1973, 87 Stat. 785, classified to section 1-141 of the District of Columbia Code.

Section Referred to in D.C. Code

This section is referred to in section 32-334 of the District of Columbia Code.

§ 5354. Effect of detail or affiliation; travel expenses

(a) Status as a student-employee is not terminated by a temporary detail to, or affiliation with another Government or non-Government institution to procure necessary supplementary training or experience pursuant to an order of the head of the agency. A student-employee may receive his stipend and other perquisites provided under this subchapter from the hospital, clinic, or laboratory to which he is assigned or attached for not more than 60 days of a detail or affiliation for each training year, as defined by the head of the agency.

(b) When the detail or affiliation under subsection (a) of this section is to or with another Federal institution, the student-employee is entitled to necessary expenses of travel to and from the institution in accordance with subchapter I of chapter 57 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1055	Aug. 4, 1947, ch. 452, § 6, 61 Stat. 728.

In subsection (b), the reference to "subchapter I of chapter 57 of this title" is substituted for the reference to "the Standardized Government Travel Regulations and the provisions of the Subsistence Expense Act of 1926, as amended" as the Subsistence Expense Act of 1926 was repealed by section 9(a) of the Travel Expense Act of 1949, 63 Stat. 167, part of which appeared in former section 842 and is carried into section 5708, and as the authority for the Standardized Government Travel Regulations in former section 840 is carried into section 5707 of subchapter I of chapter 57.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5355. Effect on other statutes

This subchapter does not limit the authority conferred on the Administrator of Veterans' Affairs by chapter 73 of title 38.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1057	Aug. 4, 1947, ch. 452, § 8, 61 Stat. 728. June 17, 1957, Pub. L. 85-56, § 2201(19), 71 Stat. 159. Sept. 2, 1958, Pub. L. 85-857, § 13(m), 72 Stat. 1265.

The prohibition is restated in positive form.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5356. Appropriations

Funds appropriated to an agency for expenses of its hospitals, clinics, and laboratories to which student-employees are assigned or attached are available to carry out the provisions of this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 472.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 1058	Aug. 4, 1947, ch. 452, § 9, 61 Stat. 728.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER VI—MISCELLANEOUS PROVISIONS

§ 5361. Scientific and professional positions

Subject to the approval of the Civil Service Commission, the head of the agency concerned shall fix the annual rate of basic pay for scientific and professional positions established under section 3104 of this title at not less than the minimum rate for GS-16 nor more than the maximum rate for GS-18.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 1162(b)	Oct. 4, 1961, Pub. L. 87-367, § 202 "Sec. 2(b)", 75 Stat. 790. Oct. 11, 1962, Pub. L. 87-793, § 1001(a)(1), 76 Stat. 863.

The authority to fix rates of pay is added on authority of former section 1161, which is carried into section 3104.

For repeal of the Act of Aug. 1, 1947, ch. 433, 61 Stat. 715, as amended, see revision note for section 3104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Annual reports by agency heads covering positions for scientific and professional personnel, see section 3104 of this title.

Section Referred to in Other Sections

This section is referred to in section 3104 of this title.

§ 5362. Hearing examiners

Hearing examiners appointed under section 3105 of this title are entitled to pay prescribed by the Civil Service Commission independently of agency recommendations or ratings and in accordance with subchapter III of this chapter and chapter 51 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 1010 (3d sentence).	June 11, 1946, ch. 324, § 11 (3d sentence), 60 Stat. 244.

The exception from the operation of the efficiency rating system is omitted as covered by sections 4301(2)(E) and 5335(a)(B). The reference to "subchapter III of this chapter and chapter 51 of this title" is substituted for "the Classification Act of 1923, as amended" on authority of section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Additional requirements imposed by statute or otherwise recognized by law not limited or repealed by this section, see section 559 of this title.

Civil Service Commission, investigations, reports, and regulations for purposes of this section, see section 1305 of this title.

Subsequent statutes to be held to supersede or modify this section only to the extent that they do so expressly, see section 559 of this title.

Section Referred to in Other Sections

This section is referred to in sections 559, 1305 of this title; title 15 section 1715; title 29 section 661; title 42 sections 2000e-4, 3608.

§ 5363. Limitation on pay fixed by administrative action

Except as provided by the Government Employees Salary Reform Act of 1964 (78 Stat. 400) and notwithstanding the provisions of other statutes, the head of an Executive agency or military department who is authorized to fix by administrative action the annual rate of basic pay for a position or employee may not fix the rate at more than the maximum rate for GS-18. This section does not impair the authorities provided by—

(1) section 121 of title 2, Canal Zone Code (76A Stat. 15);

(2) sections 248, 481, and 1819 of title 12;

(3) section 831b of title 16; or

(4) sections 403a-403c, 403e-403h, and 403j of title 50.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 2212	Aug. 14, 1964, Pub. L. 88-426, § 308, 78 Stat. 432. Oct. 6, 1964, Pub. L. 88-631, § 3(e), 78 Stat. 1008.

The words "head of an Executive agency or military department" are coextensive with and substituted for "head of any executive department, independent establishment, or agency in the executive branch" because of the definitions in sections 102 and 105.

Standard changes are made to conform to the definitions applicable and the style of this title as outlined in the preface to the report.

References in Text

The Government Employees Salary Reform Act of 1964 (78 Stat. 400), referred to in text, is Pub. L. 88-426, Aug. 14, 1964, 78 Stat. 400. For classification of this Act in the Code, see Tables volume.

Cross Reference

Secretary of Defense authorized to prescribe salary schedules for civilian faculty and staff of Uniformed Services University of the Health Sciences so as to place employees of the University on a comparable basis with employees of fully accredited schools of the health professions in vicinity of District of Columbia, see section 2113 of Title 10, Armed Forces.

§ 5364. Miscellaneous positions in the executive branch

The head of the agency concerned shall fix the annual rate of basic pay for each position in the executive branch specifically referred to in, or covered by, a conforming change in statute made by section 305 of the Government Employees Salary Reform Act of 1964 (78 Stat.

422), or other position in the executive branch for which the annual pay is fixed at a rate of $18,500 or more under special provision of statute enacted before August 14, 1964, which is not placed in a level of the Executive Schedule set forth in subchapter II of this chapter, at a rate equal to the pay rate of a grade and step of the General Schedule set forth in section 5332 of this title. The head of the agency concerned shall report each action taken under this section to the Civil Service Commission and publish a notice thereof in the Federal Register, except when the President determines that the report and publication would be contrary to the interest of national security.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 473.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2213	Aug. 14, 1964, Pub. L. 88-426, § 309, 78 Stat. 433.

The word "office" is omitted as included in "position". The words "before August 14, 1964" are substituted for "prior to the date of enactment of this Act". The words "pursuant to section 303 of this Act" are omitted as surplusage.

Standard changes are made to conform to the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 305 of the Government Employees Salary Reform Act of 1964, referred to in text, means section 305 of Pub. L. 88-426, Aug. 14, 1964, which amended former sections 293, 294, 295a, and 3013 of this title (see Distribution Tables), section 1104 of Title 8, sections 137, 3012, 3013, 5031, 5033, 8012 and 8013 of Title 10 section 78d of Title 15, sections 2124, 2384, 2503, 2562-2564 and 2653 of Title 22, section 303 of Title 23, section 7801 of Title 26, section 3 of Title 35, section 210 of Title 38, section 661 of Title 40, sections 2032, 2037, 2471, 2472, 2474, 2502 and 3501 of Title 42, sections 1321, 1341 and 1342 of Title 49 and section 1217 of Title 50, Appendix, repealed sections 300c and 2201-2209 of this title, sections 3018, 5014 and 8018 of Title 10, section 832a-1 of Title 16, section 308 of Title 39 and section 373a-1 of Title 43, amended Reorg. Plans No. 1 of 1953, No. 1 of 1958, No. 7 of 1961 and No. 2 of 1962, and repealed notes under former sections 483-1, 2205 and 2206 of this title (see Distribution Tables) and sections 135 and 5034 of Title 10.

§ 5365. Police force of National Zoological Park

The Secretary of the Smithsonian Institution shall fix the per annum rates of basic pay of positions on the police force of the National Zoological Park in accordance with the following provisions:

(1) Private—not more than the rate for GS-7, Step 5;

(2) Sergeant—not more than the rate for GS-8, Step 5;

(3) Lieutenant—not more than the rate for GS-9, Step 5;

(4) Captain—not more than the rate for GS-10, Step 5.

(Added Pub. L. 91-34, § 1(a), June 30, 1969, 83 Stat. 41, and amended Pub. L. 94-183, § 2(20), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Pub. L. 94-183 deleted "(a)" at the beginning of the section.

EFFECTIVE DATE

Section 3(a) of Pub. L. 91-34 provided that: "The foregoing provisions of this Act [which enacted this section and amended sections 5102 and 5109 of this title and section 193n of Title 40] shall become effective at the beginning of the first pay period which commences on or after the date of enactment of this Act [June 30, 1969]."

REDUCTION OF BASIC PAY RATE

Section 3(b) of Pub. L. 91-34 provided that: "No rate of basic pay shall be reduced by reason of the enactment of this Act [which enacted this section and amended sections 5102 and 5109 of this title and section 193n of Title 40]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5102 of this title; title 40 section 193n.

CHAPTER 55—PAY ADMINISTRATION

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
5501. Disposition of money accruing from lapsed salaries or unused appropriations for salaries.
5502. Unauthorized office; prohibition on use of funds.
5503. Recess appointments.
5504. Biweekly pay periods; computation of pay.
5505. Monthly pay periods; computation of pay.
5506. Computation of extra pay based on standard or daylight saving time.
5507. Officer affidavit; condition to pay.
5508. Officer entitled to leave; effect on pay status.
5509. Appropriations.

SUBCHAPTER II—WITHHOLDING PAY

5511. Withholding pay; employees removed for cause.
5512. Withholding pay; individuals in arrears.
5513. Withholding pay; credit disallowed or charge raised for payment.
5514. Installment deduction for indebtedness because of erroneous payment.
5515. Crediting amounts received for jury or witness service.
5516. Withholding District of Columbia income taxes.
5517. Withholding State income taxes.
5518. Deductions for State retirement systems; National Guard employees.
5519. Crediting amounts received for certain Reserve or National Guard service.
5520. Withholding of city income or employment taxes.

SUBCHAPTER III—ADVANCEMENT, ALLOTMENT, AND ASSIGNMENT OF PAY

5521. Definitions.
5522. Advance payments; rates; amounts recoverable.
5523. Duration of payments; rates; active service period.
5524. Review of accounts.
5525. Allotment and assignment of pay.
5526. Funds available on reimbursable basis.
5527. Regulations.

SUBCHAPTER IV—DUAL PAY AND DUAL EMPLOYMENT

5531. Definitions.
5532. Employment of retired officers of the uniformed services; reduction in retired or retirement pay; exceptions.
5533. Dual pay from more than one position; limitations; exceptions.
5534. Dual employment and pay of Reserves and National Guardsmen.
5534a. Dual employment and pay during terminal leave from uniformed services.
5535. Extra pay for details prohibited.
5536. Extra pay for extra services prohibited.
5537. Fees for jury and witness service.

Sec.

SUBCHAPTER V—PREMIUM PAY

5541. Definitions.
5542. Overtime rates; computation.
5543. Compensatory time off.
5544. Wage-board overtime and Sunday rates; computation.
5545. Night, standby, irregular, and hazardous duty differential.
5546. Pay for Sunday and holiday work.
5547. Limitation on premium pay.
5548. Regulations.
5549. Effect on other statutes.
5550. Pay for Sunday and overtime work; employees of nonappropriated fund instrumentalities.

SUBCHAPTER VI—PAYMENT FOR ACCUMULATED AND ACCRUED LEAVE

5551. Lump-sum payment for accumulated and accrued leave on separation.
5552. Lump-sum payment for accumulated and accrued leave on entering active duty; election.

SUBCHAPTER VII—PAYMENTS TO MISSING EMPLOYEES

5561. Definitions.
5562. Pay and allowances; continuance while in a missing status; limitations.
5563. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations.
5564. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable.
5565. Agency review.
5566. Agency determinations.
5567. Settlement of accounts.
5568. Income tax deferment.

SUBCHAPTER VIII—SETTLEMENT OF ACCOUNTS

5581. Definitions.
5582. Designation of beneficiary; order of precedence.
5583. Payment of money due; settlement of accounts.
5584. Claims for overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses.

SUBCHAPTER IX—SEVERANCE PAY AND BACK PAY

[5591 to 5594. Repealed.]
5595. Severance pay.
5596. Back pay due to unjustified personnel action.

AMENDMENTS

1975—Pub. L. 94-183, § 2(24), Dec. 31, 1975, 89 Stat. 1058, deleted "Sunday," following "Night," in item 5545.

1974—Pub. L. 93-340, § 1(b), July 10, 1974, 88 Stat. 294, added item 5520.

1972—Pub. L. 92-453, § 3(2), Oct. 2, 1972, 86 Stat. 760, substituted "overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses" for "overpayment of pay" in item 5584.

Pub. L. 92-392, § 10(b), Aug. 19, 1972, 86 Stat. 574, added item 5550.

1970—Pub. L. 91-563, §§ 2(b), 3(b), Dec. 19, 1970, 84 Stat. 1477, substituted "jury or witness service" for "jury service in State courts" in item 5515, and "jury and witness service" for "jury service in courts of the United States" in item 5537.

1968—Pub. L. 90-616. § 1(b), Oct. 21, 1968, 82 Stat. 1212, added item 5584.

Pub. L. 90-588, § 2(c), Oct. 17, 1968, 82 Stat. 1152, added item 5519.

1967—Pub. L. 90-83, § 1(23), (26)(B), (28), (30), (35), Sept. 11, 1967, 81 Stat. 200, 201, 203, inserted items 5534a, 5595 and 5596, included Sunday rates in item 5544, Sunday and hazardous duty differential in item 5545 and Sundays in item 5546, substituted "Severance Pay and Back Pay" for "Back Pay" in the heading of subchapter IX, and eliminated items 5591 to 5594.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 8331 of this title.

SUBCHAPTER I—GENERAL PROVISIONS

§ 5501. Disposition of money accruing from lapsed salaries or unused appropriations for salaries

Money accruing from lapsed salaries or from unused appropriations for salaries shall be covered into the Treasury of the United States. An individual who violates this section shall be removed from the service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 50 (1st sentence; and 2d sentence, so much as relates to removal).	Aug. 5, 1882, ch. 389, § 4 (297th through 316th words), 22 Stat. 255. Aug. 23, 1912, ch. 350, § 5 (so much as relates to removal), 37 Stat. 414.

In the last sentence, the word "removed" is substituted for "summarily removed" because of the provisions of the Lloyd-LaFollette Act 37 Stat. 555, as amended, and the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 18 section 1916.

§ 5502. Unauthorized office; prohibition on use of funds

(a) Payment for services may not be made from the Treasury of the United States to an individual acting or assuming to act as an officer in the civil service or uniformed services in an office which is not authorized by existing law, unless the office is later sanctioned by law.

(b) Except as otherwise provided by statute, public money and appropriations may not be used for pay or allowance for an individual employed by an official of the United States retired from active service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 52	R.S. § 1760.
(b)	5 U.S.C. 85	July 1, 1898, ch. 546, § 1 (3d proviso on p. 644), 30 Stat. 644.

In subsection (a), the words "in the civil service or uniformed services" are substituted for "civil, military, or naval".

In subsection (b), the words "Except as otherwise provided by statute" are added in recognition of the Act of Aug. 25, 1958, Pub. L. 85-745, 72 Stat. 838, which authorizes an office staff for former Presidents. The reference to "public money and appropriations" is added for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5503. Recess appointments

(a) Payment for services may not be made from the Treasury of the United States to an individual appointed during a recess of the Senate to fill a vacancy in an existing office, if the vacancy existed while the Senate was in session and was by law required to be filled by and with the advice and consent of the Senate, until the appointee has been confirmed by the Senate. This subsection does not apply—

(1) if the vacancy arose within 30 days before the end of the session of the Senate;

(2) if, at the end of the session, a nomination for the office, other than the nomination of an individual appointed during the preceding recess of the Senate, was pending before the Senate for its advice and consent; or

(3) if a nomination for the office was rejected by the Senate within 30 days before the end of the session and an individual other than the one whose nomination was rejected thereafter receives a recess appointment.

(b) A nomination to fill a vacancy referred to by paragraph (1), (2), or (3) of subsection (a) of this section shall be submitted to the Senate not later than 40 days after the beginning of the next session of the Senate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 475.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 56	R.S. § 1761. July 11, 1940, ch. 580, 54 Stat. 751.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5504. Biweekly pay periods; computation of pay

(a) The pay period for an employee covers two administrative workweeks. For the purpose of this subsection, "employee" means—

(1) an employee in or under an Executive agency;

(2) an employee in or under the Office of the Architect of the Capitol, the Botanic Garden, and the Library of Congress, for whom a basic administrative workweek is established under section 6101(a)(5) of this title; and

(3) an individual employed by the government of the District of Columbia;

but does not include—

(A) an employee on the Isthmus of Panama in the service of the Canal Zone Government or the Panama Canal Company; or

(B) an employee or individual excluded from the definition of employee in section 5541(2) of this title.

(b) For pay computation purposes affecting an employee, the annual rate of basic pay established by or under statute is deemed payment for employment during 52 basic administrative workweeks of 40 hours. When it is necessary for computation of pay under this subsection to convert an annual rate of basic pay to a basic hourly, daily, weekly, or biweekly rate, the following rules govern:

(1) To derive an hourly rate, divide the annual rate by 2,080.

(2) To derive a daily rate, multiply the hourly rate by the number of daily hours of service required.

(3) To derive a weekly or biweekly rate, multiply the hourly rate by 40 or 80, as the case may be.

Rates are computed to the nearest cent, counting one-half and over as a whole cent. For the purpose of this subsection, "employee" means—

(A) an employee in or under an Executive agency;

(B) an employee in or under the judicial branch;

(C) an employee in or under the Office of the Architect of the Capitol, the Botanic Garden, and the Library of Congress, for whom a basic administrative workweek is established under section 6101(a)(5) of this title; and

(D) an individual employed by the government of the District of Columbia;

but does not include an employee or individual excluded from the definition of employee in section 5541(2) of this title.

(c) The Civil Service Commission may prescribe regulations, subject to the approval of the President, necessary for the administration of this section insofar as this section affects employees in or under an Executive agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 475; Pub. L. 90-83, § 1(21), Sept. 11, 1967, 81 Stat. 199.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 944(b), (d) (last 27 words, as applicable to subsection (b)).	June 30, 1945, ch. 212, § 604 (b), (e) (last 27 words, as applicable to subsection (b)), 59 Stat. 303, 304. July 31, 1959, Pub. L. 86-122, § 1, 73 Stat. 268.
(b)	5 U.S.C. 944(c), (d) (last 27 words, less applicability to subsection (b)).	June 30, 1945, ch. 212, § 604 (d), (e) (last 27 words, less applicability to subsection (b)), 59 Stat. 303, 304. Oct. 28, 1949, ch. 782, § 1203, 63 Stat. 973. June 20, 1958, Pub. L. 85-462, § 15, 72 Stat. 214. Aug. 14, 1964, Pub. L. 88-426, § 103(c), 78 Stat. 402.

In subsection (a), the words "Beginning not later than October 1, 1945" are omitted as executed. Paragraphs (1) and (3) are substituted for the words "all officers and employees of the organizations referred to in subsection (a) of this section". In paragraph (A), the words "Canal Zone Government" and "Panama Canal Company" are substituted for "The Panama Canal" and "Panama Railroad Company" on authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a), 64 Stat. 1038. Paragraph (B) is added on authority of former section 902, which is carried into section 5541.

In subsection (b), the exception in the last sentence is added on authority of former section 902, which is carried into section 5541.

Subsection (c) is added on authority of former section 945, which is carried into section 5548. The words "an Executive agency" are substituted for "the executive branch of the Government" to conform to the definition in section 105. Applicability of this section to employees of the General Accounting Office is based on former section 933a.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends 5 U.S.C. 5504 to reflect the amendment to 5 U.S.C. 6101 by section 1(43) of this bill.

PERFORMANCE OF FUNCTIONS

Functions vested in Civil Service Commission under this section insofar as it affects officers and employees in or under the executive branch of the government to be performed without approval of President, see section 1(1) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

CROSS REFERENCES

Annual leave to include only work days exclusive of Sunday and holidays, see section 6302 of this title.

Exemption of certain corporations under supervision of Farm Credit Administration, see section 6301 of this title.

Permanent organization in customs service with definite terms of service and compensation for employees, see section 1 et seq. of Title 19, Customs Duties.

Working hours of laborers and mechanics in military departments not to exceed forty hours weekly without overtime pay, see sections 4025 and 9025 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5332, 5505 of this title; title 40 sections 166b–1d, 166b–1e.

§ 5505. Monthly pay periods; computation of pay

The pay period for an individual in the service of the United States whose pay is monthly or annual covers one calendar month, and the following rules for division of time and computation of pay for services performed govern:

(1) A month's pay is one-twelfth of a year's pay.

(2) A day's pay is one-thirtieth of a month's pay.

(3) The 31st day of a calendar month is ignored in computing pay, except that one day's pay is forfeited for one day's unauthorized absence on the 31st day of a calendar month.

(4) For each day of the month elapsing before entering the service, one day's pay is deducted from the first month's pay of the individual.

This section does not apply to an employee whose pay is computed under section 5504(b) of this title.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 476.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 84	June 30, 1906, ch. 3914, § 6, 34 Stat. 763. June 30, 1945, ch. 212, § 604(c) (2d sentence), 59 Stat. 303.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Coast Guard civilian instructors, see section 186 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 7443.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 29–1093 of the District of Columbia Code.

§ 5506. Computation of extra pay based on standard or daylight saving time

When an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia is entitled to extra pay for services performed between or after certain named hours of the day or night, the extra pay is computed on the basis of either standard or daylight saving time, depending on the time observed by law, custom, or practice where the services are performed.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 476.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 914	Sept. 7, 1949, ch. 538, § 2, 63 Stat. 690.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5507. Officer affidavit; condition to pay

An officer required by section 3332 of this title to file an affidavit may not be paid until the affidavit has been filed.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 21b	Dec. 11, 1926, ch. 4, § 2, 44 Stat. 919.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5508. Officer entitled to leave; effect on pay status

An officer in the executive branch and an officer of the government of the District of Columbia to whom subchapter I of chapter 63 of this title applies are not entitled to the pay of their offices solely because of their status as officers.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2061 (c)(1) (last sentence).	July 2, 1953, ch. 178, § 1 "(c)(1) (last sentence)", 67 Stat. 136.

The words "including an officer of a corporation wholly owned or controlled by the United States" are omitted as unnecessary in view of the definition of "officer" in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5509. Appropriations

There are authorized to be appropriated sums necessary to carry out the provisions of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	[Uncodified]	June 30, 1945, ch. 212, § 609, 59 Stat. 306.
....	[Uncodified]	Oct. 28, 1949, ch. 782, § 1107, 63 Stat. 972.
....	[Uncodified]	Sept. 30, 1950, ch. 1123, § 13, 64 Stat. 1100.
....	42 U.S.C. 1370	Sept. 1, 1954, ch. 1212, § 4(a) "Sec. 1510", 68 Stat. 1135.
....	[Uncodified]	Sept. 6, 1960, Pub. L. 86-707, § 501(a), 74 Stat. 800.

The remainder of the authority for this section is implied from the statutes from which this title is derived.

SUBCHAPTER II—WITHHOLDING PAY

§ 5511. Withholding pay; employees removed for cause

(a) Except as provided by subsection (b) of this section, the earned pay of an employee removed for cause may not be withheld or confiscated.

(b) If an employee indebted to the United States is removed for cause, the pay accruing to the employee shall be applied in whole or in part to the satisfaction of any claim or indebtedness due the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 46a	Feb. 24, 1931, ch. 287, 46 Stat. 1415.

In subsection (a), the words "From and after February 24, 1931" are omitted as executed. The word "employee" is coextensive with and substituted for "civil employee of the United States" in view of the definition of "employee" in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5512. Withholding pay; individuals in arrears

(a) The pay of an individual in arrears to the United States shall be withheld until he has accounted for and paid into the Treasury of the United States all sums for which he is liable.

(b) When pay is withheld under subsection (a) of this section, the General Accounting Office, on request of the individual, his agent, or his attorney, shall report immediately to the Attorney General the balance due; and the Attorney General, within 60 days, shall order suit to be commenced against the individual.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477; Pub. L. 92-310, title II, § 202, June 6, 1972, 86 Stat. 202.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 82	R.S. § 1766.

In subsection (b), reference to the "General Accounting Office" is substituted for "accounting officers of the Treasury" on authority of the Act of June 10, 1921, ch. 18, title III, 42 Stat. 23. The words "on request of" are substituted for "if required to do so by" as more accurately reflecting the intent. Reference to the "Attorney General" is substituted for "Solicitor of the Treasury" and "Solicitor" on authority of section 16 of the Act of March 3, 1933, ch. 212, 47 Stat. 1517; section 5 of E.O. 6166, June 10, 1933; and section 1 of 1950 Reorg. Plan No. 2, 64 Stat. 1261.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1972—Subsec. (b). Pub. L. 92-310 eliminated "and his sureties" which followed "against the individual".

CROSS REFERENCES

Armed Forces, withholding pay of officers, see section 1007 of Title 37, Pay and Allowances of the Uniformed Services.

Coast Guard, pay of enlisted men indebted to United States, see section 461 of Title 14, Coast Guard.

Deductions from military and civilian pay for recovery of erroneous payments, see section 5514 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 37 section 1007.

§ 5513. Withholding pay; credit disallowed or charge raised for payment

When the General Accounting Office, on a statement of the account of a disbursing or certifying official of the United States, disallows credit or raises a charge for a payment to an individual in or under an Executive agency otherwise entitled to pay, the pay of the payee shall be withheld in whole or in part until full reimbursement is made under regulations prescribed by the head of the Executive agency from which the payee is entitled to receive pay. This section does not repeal or modify existing statutes relating to the collection of the indebtedness of an accountable, certifying, or disbursing official.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 46b	May 26, 1936, ch. 452, 49 Stat. 1374 Aug. 3, 1950, ch. 515, 64 Stat. 393.

The words "On and after May 26, 1936" are omitted as executed. The word "official" is substituted for "officer" and "officers" as the definition of "officer" in section 2104 excludes a member of a uniformed service. The words "from the United States or from an agency or instrumentality thereof" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5514. Installment deduction for indebtedness because of erroneous payment

(a) When the head of the agency concerned or his designee determines that an employee, a member of the armed forces, or a Reserve of the armed forces, is indebted to the United States because of an erroneous payment made by the agency to or on behalf of the individual, the amount of the indebtedness may be collected in monthly installments, or at officially established regular pay period intervals, by deduction in reasonable amounts from the current pay account of the individual. The deductions may be made only from basic pay, special pay, incentive pay, retired pay, retainer pay, or, in the case of an individual not entitled to basic pay, other authorized pay. Collection shall be made over a period not greater than the anticipated period of active duty or employment, as the case may be. The amount deducted for any period may not exceed two-thirds of the pay from which the deduction is made, unless the deduction of a greater amount is necessary to make the collection within the period of anticipated active duty or employment. If the individual retires or resigns, or if his employment or period of active duty otherwise ends, before collection of the amount of the indebtedness is completed, deduction shall be made from later payments of any nature due the individual from the agency concerned.

(b) The head of each agency shall prescribe regulations, subject to the approval of the Director of the Bureau of the Budget, to carry out this section and section 581d of title 31. Regulations prescribed by the Secretaries of the military departments shall be uniform for the military services insofar as practicable.

(c) Subsection (a) of this section does not modify existing statutes which provide for forfeiture of pay or allowances. This section and section 581d of title 31 do not repeal, modify, or amend section 4837(d) or 9837(d) of title 10 or section 1007(b), (c) of title 37.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 46d	July 15, 1954, ch. 509, §§ 1, 2, 4, 68 Stat. 482, 483.
....	5 U.S.C. 46e	

In subsection (a), the words "head of the agency concerned" are substituted for "Secretary of the department concerned or the head of the agency or independent establishment concerned, or one of their designees". The words "an employee, a member of the armed forces, or a Reserve of the armed forces" are coextensive with and substituted for "an employee of the United States or any member of the Army, Navy, Air Force, Marine Corps, or Coast Guard, or a reserve component thereof" in view of the definitions in sections 2101 and 2105. The words "basic compensation" are omitted as included in "basic pay".

In subsection (b), the words "head of each agency" are substituted for "Each Secretary of a department, or head of an agency or independent establishment, as appropriate". The words "Secretaries of the military departments" are substituted for "Secretaries of the Army, Navy, and Air Force" to conform to the definition of "military department" in section 102.

In subsection (c), the words "section 4837(d) or 9837 (d) of title 10 or section 1007(b), (c) of title 37" are substituted for "the provisions of the Act of May 22, 1928 (ch. 676, 45 Stat. 698)" in section 4 of the Act of July 15, 1954, on authority of the Acts of Aug. 10, 1956, ch. 1041, § 49(b), 70A Stat. 640, and Sept. 7, 1962, Pub. L. 87-649, § 12(b), 76 Stat. 497.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to this title. Section 102 of 1970 Reorg. Plan No. 2 redesignated the Bureau of the Budget as the Office of Management and Budget.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (b) of this section to approve regulations prescribed by the head of each agency to carry out this section and section 581d of Title 31, Money and Finance, relating to installment deductions from pay for indebtedness because of erroneous payment, delegated to the United States Civil Service Commission, see section 8(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 470m.

§ 5515. Crediting amounts received for jury or witness service

An amount received by an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia for service as a juror or witness during a period for which he is entitled to leave under section 6322(a) of this title, or is performing official duty under section 6322(b) of this title, shall be credited against pay payable to him by the United States or the District of Columbia with respect to that period.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 91-563, § 2(a), Dec. 19, 1970, 84 Stat. 1476.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 30p	June 29, 1940, ch. 446, § 3, 54 Stat. 689.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1970—Pub. L. 91-563 substituted "jury or witness service" for "jury service in State courts" in section catchline.

Pub. L. 91-563 authorized crediting of amounts received for jury service in courts in the District of Columbia and in territories or possessions of the United States, included amounts received for service as a witness or when performing official duty under section 6322(b) of this title, and excepted individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

§ 5516. Withholding District of Columbia income taxes

(a) The Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the Commissioner of the District of Columbia within 120 days of a request for agreement from the Commissioner. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of subchapter II of chapter 15 of title 47, District of Columbia Code, in the case of employees of the agency who are subject to income taxes imposed by that subchapter and whose regular place of employment is within the District of Columbia. The agreement may not apply to pay of an employee who is not a resident of the District of Columbia as defined in subchapter II of chapter 15 of title 47, District of Columbia Code. In the case of pay for service as a member of the armed forces, the second sentence of this subsection shall be applied by substituting "who are residents of the District of Columbia" for "whose regular place of employment is within the District of Columbia". For the purpose of this subsection, "employee" has the meaning given it by section 1551c(z) of title 47, District of Columbia Code.

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 90-623, § 1(9), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 94-455, title XII, § 1207(a)(2), Oct. 4, 1976, 90 Stat. 1207.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	[Uncodified]	Mar. 31, 1956, ch. 154, § 11 "(k)", 70 Stat. 77.

Section 2(c) "(z)" of the Act of Mar. 31, 1956, 70 Stat. 68 (section 1551c(z) of title 47, District of Columbia Code) contains a definition of "employee" that is applicable to this section. Accordingly, the last sentence of subsection (a) is added to preserve the application of the source law.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1976—Pub. L. 94-455 struck out "pay for service as a member of the armed forces, or to" following "The agreement may not apply to" and added provision that in the case of service as a member of the armed forces, the second sentence shall be applied by substituting "who are residents of the District of Columbia" for "whose regular place of employment is within the District of Columbia".

1968—Subsec. (a). Pub. L. 90-623 substituted "Commissioner" for "Commissioners" in two instances.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1207(f)(1) of Pub. L. 94-455 provided that: "The amendments made by subsection (a) [amending subsec. (a) of this section and section 5517(a) of this title] shall apply to wages withheld after the 120-day period following any request for an agreement after the date of the enactment of this Act [Oct. 4, 1976]."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

CROSS REFERENCE

Withholding of District of Columbia income taxes by Secretary of Senate, see section 60c-3 of Title 2, The Congress.

Withholding of District of Columbia income taxes by Clerk and Sergeant at Arms of the House of Representatives, see sections 60e-1a and 60e-1b of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5517 of this title.

§ 5517. Withholding State income taxes

(a) When a State statute—

(1) provides for the collection of a tax either by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the State, or by granting to employers generally the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld; and

(2) imposes the duty or grants the authority to withhold generally with respect to the pay of employees who are residents of the State;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the State withholding statute in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the State with which the agreement is made. In the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by sustituting "who are residents of the State with which the agreement is made" for "whose regular place of Federal employment is within the State with which the agreement is made".

(b) This section does not give the consent of the United States to the application of a statute which imposes more burdensome requirements on the United States than on other employers, or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a State for services performed in withholding State income taxes from the pay of the employees of the agency.

(c) For the purpose of this section, "State" means a State or territory or possession of the United States.

(d) For the purpose of this section and sections 5516 and 5520, the terms "serve as a member of the armed forces" and "service as a member of the Armed Forces" do not include—

(1) participation in exercises or the performance of duty under section 502 of title 32, United States Code, by a member of the National Guard; and

(2) participation in scheduled drills or training periods, or service on active duty for training, under section 270(a) of title 10, United States Code, by a member of the Ready Reserve.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 478; Pub. L. 94-455, title XII, § 1207(a)(1), (b), (c), Oct. 4, 1976, 90 Stat. 1704, 1705.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 84b	July 17, 1952, ch. 940, § 1, 66 Stat. 765. Sept. 23, 1959, Pub. L. 86-371 "Sec. 1", 73 Stat. 653.
....	5 U.S.C. 84c	July 17, 1952, ch. 940, § 2, 66 Stat. 766. Sept. 23, 1959, Pub. L. 86-371 "Sec. 2", 73 Stat. 653.

In subsection (b), the words "after March 31, 1959" are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1976—Subsec. (a). Pub. L. 94-455, § 1207(a)(1), (c), added in par. (1) provision relating to the grant to employers of the authority to withhold sums from the pay of employees if any employee voluntarily elects to have such sums withheld, inserted in par. (2) "or grants the authority" following "imposes the duty", and substituted in material following par. (2) provisions that in the case of pay for service as a member of the armed forces, the preceding sentence shall be applied by substituting "who are residents of the State with which the agreement is made" for "whose regular place of Federal employment is within the State with which the agreement is made" for provision that the agreement may not apply to pay for service as a member of the armed forces.

Subsec. (d). Pub. L. 94-455, § 1207(b), added subsec. (d).

Effective Date of 1976 Amendment

Section 1207(f)(2) of Pub. L. 94-455 provided that: "The amendments made by subsections (b) and (c) [amending subsecs. (a)(1), (2) and adding subsec. (d) of this section] shall apply to wages withheld after the 120-day period following the date of the enactment of this Act [Oct. 4, 1976]."

Amendment of last sentence of subsec. (a) of this section by Pub. L. 94-455 applicable to wages withheld after the 120-day period following any request for an agreement after Oct. 4, 1976, see note under section 5516 of this title.

Executive Order No. 10407

Ex. Ord. No. 10407, Nov. 7, 1952, 17 F.R. 10132, formerly set out as a note under this section, which related to regulations governing agreements concerning withholding of state or territorial income taxes, was revoked by Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, set out as a note under section 5520 of this title.

Cross Reference

Withholding of State income taxes by Secretary of Senate, see section 60c-3 of Title 2, The Congress.

Withholding of State income taxes by Clerk and Sergeant at Arms of the House of Representatives, see sections 60e-1a and 60e-1b of Title 2, The Congress.

Withholding of State income taxes by Architect of the Capitol, see section 166b-5 of Title 40, Public Buildings, Property, and Works.

§ 5518. Deductions for State retirement systems; National Guard employees

When—

(1) a State statute provides for the payment of employee contributions to a State employee retirement system or to a State sponsored plan providing retirement, disability, or death benefits, by withholding sums from the pay of State employees and making returns of the sums withheld to State authorities or to the person or organization designated by State authorities to receive sums withheld for the program; and

(2) individuals employed by the Army National Guard and the Air National Guard, except employees of the National Guard Bureau, are eligible for membership in a State employee retirement system or other State sponsored plan;

the Secretary of Defense, under regulations prescribed by the President, shall enter into an agreement with the State within 120 days of a request for agreement from the proper State official. The agreement shall provide that the Department of Defense shall comply with the requirements of State statute as to the individuals named by paragraph (2) of this section who are eligible for membership in the State employee retirement system. The disbursing officials paying these individuals shall withhold and pay to the State employee retirement system or to the person or organization designated by State authorities to receive sums withheld for the program the employee contributions for these individuals. For the purpose of this section, "State" means a State or territory or possession of the United States including the Commonwealth of Puerto Rico.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 479.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 84d	June 15, 1956, ch. 390, 70 Stat. 283. Sept. 13, 1961, Pub. L. 87-224, § 1, 75 Stat. 496.

The words "individuals employed by" and the word "individuals" are substituted for "civilian employees of" and "employees", respectively, in view of the definition of "employee" in section 2105 which is limited to those employed by the Government of the United States. The word "civilian" is omitted as unnecessary as military personnel are not "employed". The words "disbursing officials" are substituted for "disbursing officers" as the definition of "officer" in section 2104 excludes a member of a uniformed service.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Ex. Ord. No. 10996. Withholding of Compensation for State and State-Sponsored Employee Retirement, Disability, or Death Benefits Programs

Ex. Ord. No. 10996, Feb. 16, 1962, 27 F.R. 1521, provided:

By virtue of the authority vested in me by the act of June 15, 1956, as amended, 75 Stat. 496 (5 U.S.C. 84d) [now this section], and by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

Section 1. As used in this order, the term:

(a) "Employees" means civilian employees of the Army National Guard or Air National Guard of a State who are employed pursuant to section 709 of title 32 of the United States Code, and paid from Federal, appropriated funds.

(b) "State" means one of the United States, the Commonwealth of Puerto Rico, and any territory of the United States.

SEC. 2. Each agreement between the Secretary of Defense and the Governor or other proper official of a State, pursuant to the provisions of the act of June 15, 1956, as amended, with respect to withholding of compensation of certain civilian employees of the Army National Guard and the Air National Guard for purposes of State or State-sponsored employee retirement, disability, or death benefits systems, shall be entered into by the Secretary of Defense within one hundred and twenty days of the receipt of a request therefor by the Secretary from the Governor or any other proper official of any State; *Provided*, that—

(a) the law of such State provides for the payment of employee contributions to such State or State-sponsored employee retirement, disability, or death benefits systems by withholding sums from the compensation of such State employees and making returns of such sums to officials of such State or organization designated by such officials to receive sums withheld for such programs;

(b) civilian employees of the Army National Guard and the Air National Guard, other than those employed by the National Guard Bureau, are eligible for membership in a State retirement, disability, or death benefits system; and

(c) each such agreement is consistent with the provisions of the said act of June 15, 1956, as amended, and of rules and regulations issued thereunder, and contains a clause that it shall be subject to any amendments of the said act, including amendments occurring after the effective date of such agreement.

SEC. 3. Each such agreement shall:

(a) Provide that the Secretary of the Army with respect to civilian employees of the Army National Guard, and the Secretary of the Air Force with respect to civilian employees of the Air National Guard, shall comply with the requirements of such State law in the case of employee subject to the said act of June 15, 1956, as amended, who are eligible for membership in such retirement, disability, or death benefits system for State employees;

(b) Specify when the withholding of sums from the compensation of such State employees shall commence; and

(c) Provide for procedures for the withholding, the filing of the returns, and the payment of the sums withheld from compensation to the officials of the State, or organization designated by such officials to receive sums withheld for such programs, which procedures shall conform, so far as practicable, to the usual fiscal practices of the Department of the Army and the Department of the Air Force, respectively.

SEC. 4. The Secretary of the Army with respect to civilian employees of the Army National Guard, and the Secretary of the Air Force with respect to civilian employees of the Air National Guard, shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold sums from compensation, file required returns, and direct the payment of sums so withheld, in accordance with the terms of the agreements entered into between the Secretary of Defense and the States.

SEC. 5. Nothing in this order, or in rules or regulations issued thereunder, or in any agreement entered into pursuant thereto, shall be construed as giving consent to the application of any provision of law of any State which has the effect of imposing more burdensome requirements upon the United States than it imposes upon departments, agencies, or political subdivisions of the State concerned, with respect to employees thereof who are members of the State or State-sponsored retirement, disability, or death benefits system, or which has the effect of subjecting the United States or any of its officers or employees to any penalty or liability.

SEC. 6. I hereby delegate to the Secretary of Defense authority to prescribe such rules and regulations, not inconsistent herewith, as may be necessary to effectuate further the provisions of the said act of June 15, 1956, as amended, or of this order.

SEC. 7. Except to the extent that they may be inconsistent with this order, all determinations, authorizations, regulations, rulings, certificates, orders, directives, contracts, agreements, and other actions made, issued, or entered into with respect to any function affected by this order and not revoked, superseded, or otherwise made inapplicable before the date of this order, shall continue in full force and effect until amended, modified, or terminated by appropriate authority.

SEC. 8. This order supersedes Executive Order No. 10679 of September 20, 1956.

JOHN F. KENNEDY.

§ 5519. Crediting amounts received for certain Reserve or National Guard service

An amount (other than a travel, transportation, or per diem allowance) received by an employee or individual for military service as a member of the Reserve or National Guard for a period for which he is entitled to leave under section 6323(c) or (d) of this title shall be credited against the pay payable to the employee or individual with respect to his civilian position for that period.

(Added Pub. L. 90-588, § 2(b), Oct. 17, 1968, 82 Stat. 1152.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6323 of this title.

§ 5520. Withholding of city income or employment taxes

(a) When a city ordinance—

(1) provides for the collection of a tax by imposing on employers generally the duty of withholding sums from the pay of employees and making returns of the sums to the city; and

(2) imposes the duty to withhold generally on the payment of compensation earned within the jurisdiction of the city in the case of employees whose regular place of employment is within such jurisdiction;

the Secretary of the Treasury, under regulations prescribed by the President, shall enter into an agreement with the city within 120 days of a request for agreement by the proper city official. The agreement shall provide that the head of each agency of the United States shall comply with the requirements of the city ordinance in the case of employees of the agency who are subject to the tax and whose regular place of Federal employment is within the jurisdiction of the city with which the agreement is made. The agreement may not apply to pay for service as a member of the Armed Forces. The agreement may not permit withholding of a city tax from the pay of an employee who is not a resident of the State in which that city is located unless the employee consents to the withholding.

(b) This section does not give the consent of the United States to the application of an ordinance which imposes more burdensome requirements on the United States than on other employers or which subjects the United States or its employees to a penalty or liability because of this section. An agency of the United States may not accept pay from a city for services performed in withholding city income or employment taxes from the pay of employees of the agency.

(c) For the purpose of this section—

(1) "city" means any unit of general local government which—

(A) is classified as a municipality by the Bureau of the Census, or

(B) is a town or township which, in the determination of the Secretary of the Treasury—

(i) possesses powers and performs functions comparable to those associated with municipalities,

(ii) is closely settled, and

(iii) contains within its boundaries no incorporated places, as defined by the Bureau of the Census,

within the political boundaries of which 500 or more persons are regularly employed by all agencies of the Federal Government; and

(2) "agency" means—

(A) an Executive agency;

(B) the judicial branch; and

(C) the United States Postal Service.

(Added Pub. L. 93-340, § 1(a), July 10, 1974, 88 Stat. 294, and amended Pub. L. 94-358, § 1, July 12, 1976, 90 Stat. 910.)

Amendments

1976—Subsec. (c)(1). Pub. L. 94-358 substituted provision defining a city, for purposes of this section, as any unit of general local government which is classified a municipality by the Bureau of the Census, or is a town or township which in the opinion of the Secretary of the Treasury possesses powers and performs functions comparable to those associated with municipalities, is closely settled, and contains within its boundaries no incorporated places, as defined by the Bureau of the Census, within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government, for provision defining a city, for purposes of this section, as a city which is duly incorporated under the laws of a State and within the political boundaries of which five hundred or more persons are regularly employed by all agencies of the Federal Government.

Effective Date of 1976 Amendment

Section 2 of Pub. L. 94-358 provided that: "The amendment made by the first section of this Act [amending subsec. (c)(1) of this section] shall take effect on the date of the enactment of this Act [July 12, 1976]."

Effective Date

Section 3 of Pub. L. 93-340 provided that: "This section shall become effective on the date of enactment of this Act [July 10, 1974]. The provisions of the first section and section 2 of this Act [enacting this section and amending section 410(b)(1) of Title 39, Postal Service] shall become effective on the ninetieth day following the date of enactment [July 10, 1974]."

Executive Order No. 11833

Ex. Ord. No. 11833, Jan. 13, 1975, 40 F.R. 2673, formerly set out as a note under this section, which related to the withholding of city income or employment taxes by federal agencies, was revoked by Ex. Ord. No. 11863, June 12, 1975, 40 F.R. 25413, set out as a note under this section.

Executive Order No. 11863

Ex. Ord. No. 11863, June 12, 1975, 40 F.R. 25431, formerly set out as a note under this section, which related to the withholding of city income or employment taxes by federal agencies, was revoked by Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, set out as a note under this section.

Ex. Ord. No. 11968. Withholding of District of Columbia, State and City Income or Employment Taxes

Ex. Ord. No. 11968, Jan. 31, 1977, 42 F.R. 6787, provided:

By virtue of the authority vested in me by Sections 5516, 5517 and 5520 of Title 5 of the United States Code, and Section 301 of Title 3 of the United States Code, and as President of the United States of America, it is hereby ordered as follows:

Section 1. Whenever the Secretary of the Treasury enters into an agreement pursuant to Sections 5516, 5517, or 5520 of Title 5 of the United States Code, with the District of Columbia, a State, or a city, as the case may be, with regard to the withholding, by an agency of the United States, hereinafter referred to as an agency, of income or employment taxes from the pay of Federal employees or members of the Armed Forces, the Secretary of the Treasury shall ensure that each agreement is consistent with those sections and regulations, including this Order, issued thereunder.

Sec. 2. Each agreement shall provide (a) when tax withholding shall begin, (b) that the head of an agency may rely on the withholding certificate of an employee or a member of the Armed Forces in withholding taxes, (c) that the method for calculating the amount to be withheld for District of Columbia, State or city income or employment taxes shall produce approximately the tax required to be withheld by the District of Columbia or State law, or city ordinance, whichever is applicable, and (d) that procedures for the withholding, filing of returns, and payment of the withheld taxes to the District of Columbia, State or city shall conform to the usual fiscal practices of agencies. Any agreement affecting members of the Armed Forces shall also provide that the head of an agency may rely on the certificate of legal residence of a member of the Armed Forces in determining his or her residence for tax withholding purposes. No agreement shall require the collection by an agency of delinquent tax liabilities of an employee or a member of the Armed Forces.

Sec. 3. The head of each agency shall designate, or provide for the designation of, the officers or employees whose duty it shall be to withhold taxes, file required returns, and direct payment of the taxes withheld, in accordance with this Order, any regulations prescribed by the Secretary of the Treasury, and the applicable agreement.

Sec. 4. The Secretary of the Treasury is authorized to prescribe additional regulations to implement Sections 5516, 5517, and 5520 of Title 5 of the United States Code, and this Order.

Sec. 5. Executive Order Nos. 10407 of November 6, 1952, 10672 of July 9, 1956, and 11863 of June 12, 1975, are hereby revoked. However, all actions heretofore taken by the President or his delegates in respect of the matters affected by this Order and in force at the time of the issuance of this Order, including any regulations prescribed or approved by the President or his delegates in respect of such matters and any existing agreements approved by his delegates, shall, except as they may be inconsistent with the provisions of this Order, remain in effect until amended, modified, or revoked pursuant to the authority conferred by this Order, unless sooner terminated by operation of law.

Jimmy Carter.

Section Referred to in Other Sections

This section is referred to in section 5517 of this title; title 39 section 410.

SUBCHAPTER III—ADVANCEMENT, ALLOTMENT, AND ASSIGNMENT OF PAY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5527 of this title.

§ 5521. Definitions

For the purpose of this subchapter—

(1) "agency" means—

(A) an Executive agency;

(B) the judicial branch;

(C) the Library of Congress;

(D) the Government Printing Office; and

(E) the government of the District of Columbia;

(2) "employee" means an individual employed in or under an agency;

(3) "head of each agency" means—

(A) the Director of the Administrative Office of the United States Courts with respect to the judicial branch; and

(B) the Commissioner of the District of Columbia with respect to the government of the District of Columbia; and

(4) "United States", when used in a geographical sense, means the several States and the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 479; Pub. L. 90-623, § 1(10), Oct. 22, 1968, 82 Stat. 1312.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3071	Sept. 26, 1961, Pub. L. 87-304, § 1, 75 Stat. 662. June 24, 1965, Pub. L. 89-47, 79 Stat. 171.

In paragraph (1), the word "agency" is substituted for "department". The term "Executive agency" is substituted for the reference to "each executive department of the Government of the United States of America; each agency or independent establishment in the executive branch of such Government; each corporation wholly owned or controlled by such Government" in former section 3071(1)(A)-(C).

Paragraph (2) is added for clarity and in view of the fact that the definition of "employee" in section 2105 does not include individuals employed by the government of the District of Columbia.

In paragraph (3), the term "department head" is omitted as unnecessary.

In paragraph (4), the words "of the United States of America" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Par. (3)(B). Pub. L. 90-623 substituted "Commissioner" for "Board of Commissioners".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

§ 5522. Advance payments; rates; amounts recoverable

(a) The head of each agency may provide for the advance payment of the pay, allowances, and differentials, or any of them, covering a period of not more than 30 days, to or for the account of each employee of the agency (or, under emergency circumstances and on a reimbursable basis, an employee of another agency) whose evacuation (or that of his dependents or immediate family, as the case may be) from a place inside or outside the United States is ordered for military or other reasons which create imminent danger to the life or lives of the employee or of his dependents or immediate family.

(b) Subject to adjustment of the account of an employee under section 5524 of this title and other applicable statute, the advance payment of pay, allowances, and differentials is at rates currently authorized with respect to the employee on the date the advance payment is made under agency procedures governing advance payments under this subsection. The rates so authorized may not exceed the rates to which the employee was entitled immediately before issuance of the evacuation order.

(c) An advance of funds under subsection (a) of this section is recoverable by the Government of the United States or the government of the District of Columbia, as the case may be, from the employee or his estate by—

(1) setoff against accrued pay, amount of retirement credit, or other amount due to the employee from the Government of the United States or the government of the District of Columbia; and

(2) such other method as is provided by law.

The head of the agency concerned may waive in whole or in part a right of recovery of an advance of funds under subsection (a) of this section, if it is shown that the recovery would be against equity and good conscience or against the public interest.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 480.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3072	Sept. 26, 1961, Pub. L. 87-304, § 2, 75 Stat. 662.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5524 of this title.

§ 5523. Duration of payments; rates; active service period

(a) The head of each agency may provide for—

(1) the payment of monetary amounts covering a period of not more than 60 days to or for the account of each employee of the agency (or, under emergency circumstances and on a reimbursable basis, an employee of another agency)—

(A) whose evacuation from a place inside or outside the United States is ordered for military or other reasons which create imminent danger to the life of the employee; and

(B) who is prevented, by circumstances beyond his control and beyond the control of the Government of the United States or the government of the District of Columbia, or both, as the case may be, from performing the duties of the position which he held immediately before issuance of the evacuation order; and

(2) the termination of payment of the monetary amounts.

The President, with respect to the Executive agencies, may extend the 60-day period for not more than 120 additional days if he determines that the extension of the period is in the interest of the United States.

(b) Subject to adjustment of the account of an employee under section 5524 of this title and other applicable statute, each payment under this section is at rates of pay, allowances, and differentials, or any of them, currently authorized with respect to the employee on the date payment is made under agency procedures governing payments under this section. The rates so authorized may not exceed the rates to which the employee was entitled immediately before issuance of the evacuation order. An employee in an Executive agency may be granted such additional allowance payments as the President determines necessary to offset the direct added expenses incident to the evacuation.

(c) Each period for which payment of amounts is made under this section to or for the account of an employee is deemed, for all purposes with respect to the employee, a period of active service, without break in service, performed by the employee in the employment of the Government of the United States or the government of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 480.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3073	Sept. 26, 1961, Pub. L. 87-304, § 3, 75 Stat. 663.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5524 of this title.

§ 5524. Review of accounts

The head of each agency shall provide for—

(1) the review of the account of each employee of the agency in receipt of payments under section 5522 or 5523 of this title, or both, as the case may be; and

(2) the adjustment of the amounts of the payments on the basis of—

(A) the rates of pay, allowances, and differentials to which the employee would have been entitled under applicable statute other than this subchapter for the respective periods covered by the payments, if he had performed active service under the terms of his appointment during each period in the position he held immediately before the issuance of the applicable evacuation order; and

(B) such additional amounts as the employee is authorized to receive in accordance with a determination of the President under section 5523(b) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 481.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3074	Sept. 26, 1961, Pub. L. 87-304, § 4, 75 Stat. 663.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5522, 5523 of this title.

§ 5525. Allotment and assignment of pay

The head of each agency may establish procedures under which each employee of the agency is permitted to make allotments and assignments of amounts out of his pay for such purpose as the head of the agency considers appropriate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 481.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3075	Sept. 26, 1961, Pub. L. 87-304, § 5, 75 Stat. 663.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5526. Funds available on reimbursable basis

Funds available to an agency for payment of pay, allowances, and differentials to or for the accounts of employees of the agency are available on a reimbursable basis for payment of pay, allowances, and differentials to or for the accounts of employees of another agency under this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 481.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3078	Sept. 26, 1961, Pub. L. 87-304, § 8, 75 Stat. 664.

The word "civilian" is omitted as unnecessary in view of the definition of "employee" in section 5521(2), and the fact that military personnel are not "employed".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5527. Regulations

(a) To the extent practicable in the public interest, the President shall coordinate the policies and procedures of the respective Executive agencies under this subchapter.

(b) The President, with respect to the Executive agencies, the head of the agency concerned, with respect to the appropriate agency outside the executive branch, and the District of Columbia Council, with respect to the government of the District of Columbia, shall prescribe and issue, or provide for the formulation and issuance of, regulations necessary and appropriate to carry out the provisions, accomplish the purposes, and govern the administration of this subchapter.

(c) The head of each Executive agency may prescribe and issue regulations, not inconsistent with the regulations of the President issued under subsection (b) of this section, necessary and appropriate to carry out his functions under this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 481; Pub. L. 90-623, § 1(11), Oct. 22, 1968, 82 Stat. 1312.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3076	Sept. 26, 1961, Pub. L. 87-304, § 6, 75 Stat. 664.

In subsection (b), the last sentence of former section 3076, which provided for the issuance of the regulations not later than December 25, 1961, and the effective date of the regulations as not later than March 25, 1962, is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-623 inserted reference to the District of Columbia Council, with respect to the government of the District of Columbia.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

The District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, was abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, classified to section 1-131 of the District of Columbia Code, and replaced by the Council of the District of Columbia, as provided by Pub. L. 93-198, title IV, § 401, Dec. 24, 1973, 87 Stat. 785, classified to section 1-141 of the District of Columbia Code.

EX. ORD. NO. 10982. ADMINISTRATION OF PROVISIONS OF CHAPTER

Ex. Ord. No. 10982, Dec. 25, 1961, 27 F.R. 3, provided:

By virtue of the authority vested in me by the act of September 26, 1961 (75 Stat. 662) [now this subchapter] and by section 301 of title 3 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. As used in this order:

(a) The term "the act" means the act of September 26, 1961 (Public Law 87-304), 75 Stat. 662 [now this subchapter].

(b) The term "Federal agency" means any executive department of the Government of the United States of America, any agency or independent establishment in the executive branch of the Government, and any corporation wholly owned or controlled by the Government.

(c) The term "foreign area" means any area (including the Trust Territory of the Pacific Islands) situated outside (1) the United States (including the District of Columbia), (2) the Commonwealth of Puerto Rico, (3) the Canal Zone, and (4) any territory or possession of the United States.

SEC. 2. (a) Except as otherwise provided by section 2(b) and section 3(c) of this order, the Secretary of State in respect of civilian employees of Federal agencies who are located in foreign areas immediately prior to an emergency evacuation, and the Civil Service Commission in respect of all other civilian employees of Federal agencies, are hereby designated and empowered, without the approval, ratification, or other action of the President, to perform the functions conferred upon the President by section 3(a), section 3(b), and section 6(a) of the act [now sections 5523(a) and 5523(b) of this title and subsec. (a) of this section].

(b) The Civil Service Commission is hereby designated and empowered, without the approval, ratification, or other action of the President, to perform the functions conferred upon the President by the provisions of section 6 of the act [now this section] with respect to allotments and assignments authorized by section 5 of the act [now section 5525 of this title].

SEC. 3. The following regulations are hereby prescribed as necessary and appropriate to carry out the provisions, accomplish the purposes, and govern the administration of the act:

(a) To the maximum extent practicable, the Secretary of State, the Civil Service Commission, and the heads of other Federal agencies shall exercise their authority under the act and this order so that employees of different Federal agencies evacuated from the same geographic area under the same general circumstances may be treated uniformly.

(b) Advance payments of compensation, allowances, and differentials, as authorized by section 2 of the act [now section 5522 of this title], shall be held to the minimum period during which the order for evacuation is anticipated to continue, and shall in no event be made for a period of more than thirty days.

(c) It is hereby determined to be in the interest of the United States that payments of monetary amounts as authorized by section 3 of the act [now section 5523 of this title] to and for the account of an employee whose evacuation is ordered and who is prevented from performing the duties of his position, under the circumstances set forth in section 3 of the act [now section 5523 of this title], should be extended beyond sixty days for not more than one hundred and twenty additional days only upon determination, pursuant to regulations of the head of the Federal agency concerned, that such additional payments are reasonably necessary to maintain a civilian staff available for performance of duty. Such payments of monetary amounts under the authority of section 3 of the act [now section 5523 of this title] shall be terminated as of such dates as may be determined by the Secretary of State or the Civil Service Commission, as appropriate, but not later than the date on which an employee resumes his duties at the post from which he has been evacuated or is assigned to another position.

SEC. 4. (a) The head of each Federal agency shall issue as soon as practicable such regulations as may be necessary and appropriate to carry out his functions under the act and this order.

(b) In order to coordinate the policies and procedures of the executive branch of the Government, all regulations of any Federal agency prepared for issuance under the provisions of section 6(c) of the act [now subsection (c) of this section] and section 4(a) of this order shall be submitted for prior approval to the Secretary of State, or to the Civil Service Commission, as may be appropriate, under section 2 of this order. The Secretary of State and the Civil Service Commission shall review such regulations for conformance with the purpose and intent of the act and of the regulations contained in section 3 of this order. No Federal agency shall make any payment under the provisions of the act or this order until such regulations have been approved by the Secretary of State, or the Civil Service Commission, as appropriate.

JOHN F. KENNEDY.

SUBCHAPTER IV—DUAL PAY AND DUAL EMPLOYMENT

§ 5531. Definitions

For the purpose of sections 5532 and 5533 of this title—

(1) "officer" has the meaning given it by section 101 of title 37; and

(2) "position" means a civilian office or position (including a temporary, part-time, or

intermittent position), appointive or elective, in the legislative, executive, or judicial branch of the Government of the United States (including a Government corporation and a nonappropriated fund instrumentality under the jurisdiction of the armed forces) or in the government of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 482.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3101 (as applicable to 5 U.S.C. 3102(a)-(e) and 3105 (less (e)).	Aug. 19, 1964, Pub. L. 88-448, § 101 (as applicable to §§ 201 (a)-(e) and 301 (less (e)), 78 Stat. 484.

In paragraph (2), the defined word "position" is substituted for "civilian office." The words "Government corporation" are substituted for "corporation owned or controlled by such Government" in view of the definition in section 103.

The definitions of "uniformed services" and "armed forces" are omitted as unnecessary in view of the definitions in section 2101.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Time limitation on claims against Government employees who received dual compensation in violation of the dual compensation laws, see section 237a of Title 31, Money and Finance.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 5532. Employment of retired officers of the uniformed services; reduction in retired or retirement pay; exceptions

(a) For the purpose of this section, "period for which he receives pay" means the full calendar period for which a retired officer of a regular component of a uniformed service receives the pay of a position when employed on a full-time basis, but only the days for which he actually receives that pay when employed on a part-time or intermittent basis.

(b) A retired officer of a regular component of a uniformed service who holds a position is entitled to receive the full pay of the position, but during the period for which he receives pay, his retired or retirement pay shall be reduced to an annual rate equal to the first $2,000 of the retired or retirement pay plus one-half of the remainder, if any. In the operation of the formula for the reduction of retired or retirement pay under this subsection, the amount of $2,000 shall be increased, from time to time, by appropriate percentage, in direct proportion to each increase in retired or retirement pay under section 1401a(b) of title 10 to reflect changes in the Consumer Price Index.

(c) The reduction in retired or retirement pay required by subsection (b) of this section does not apply to a retired officer of a regular component of a uniformed service—

(1) whose retirement was based on disability—

(A) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of title 38; or

(2) employed on a temporary (full-time or part-time) basis, any other part-time basis, or an intermittent basis, for the first 30-day period for which he receives pay.

The exemption from reduction in retired or retirement pay under paragraph (2) of this subsection does not apply longer than—

(i) the first 30-day period for which he receives pay under one appointment from the position in which he is employed, if he is serving under not more than one appointment; and

(ii) the first period for which he receives pay under more than one appointment, in a fiscal year, which consists in the aggregate of 30 days, from all positions in which he is employed, if he is serving under more than one appointment in that fiscal year.

(d) Except as otherwise provided by this subsection, the Civil Service Commission, subject to the supervision and control of the President, may prescribe regulations under which exceptions may be made to the restrictions in subsection (b) of this section when appropriate authority determines that the exceptions are warranted because of special or emergency employment needs which otherwise cannot be readily met. The President of the Senate with respect to the United States Senate, the Speaker of the House of Representatives with respect to the United States House of Representatives, and the Architect of the Capitol with respect to the Office of the Architect of the Capitol each may provide for a means by which exceptions may be made to the restrictions in subsection (b) of this section when he determines that the exceptions are warranted because of special or emergency employment needs which otherwise cannot be readily met. The Administrator of the National Aeronautics and Space Administration may except, at any time, an individual appointed to a scientific, engineering, or administrative position under section 2473(b)(2)(A) of title 42 from the restrictions in subsection (b) of this section when he determines that the exception is warranted because of special or emergency employment needs which otherwise cannot be readily met, but not more than 30 exceptions may exist at any one time under this authority.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 482.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3102 (a)-(e)	Aug. 19, 1964, Pub. L. 88-448, § 201(a)-(e), 78 Stat. 484.

The word "position" is substituted for "civilian office" throughout the section to conform to the definition in section 5531.

In subsection (d), the words "and issue" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

FISCAL YEAR TRANSITION PERIOD OF JULY 1, 1976, THROUGH SEPTEMBER 30, 1976, DEEMED PART OF FISCAL YEAR BEGINNING OCTOBER 1, 1976

Pub. L. 94-274, title II, § 205, Apr. 21, 1976, 90 Stat. 393, provided that:

"The period of July 1, 1976, through September 30, 1976, shall be treated as part of the fiscal year beginning October 1, 1976, for the purposes of the following provisions of law:

"(1) section 5532(c)(ii) of title 5, United States Code;

"(2) sections 3, 4, and 5 of the Act of September 2, 1937 (50 Stat. 917, 918), as amended (16 U.S.C. 669b, 669c, 669d);

"(3) sections 3, 4, and 5 of the Act of August 9, 1950 (64 Stat. 432), as amended (16 U.S.C. 777b, 777c, 777d);

"(4) section 1 of the Act of August 12, 1955 (69 Stat. 698; 16 U.S.C. 669b-1);

"(5) section 26 of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. 831y);

"(6) section 303 of the Act of September 30, 1950 (20 U.S.C. 241bb);

"(7) titles I, II, III, IV, and V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 241a-o, 821-27, 841a, 861-69a and 1801-32);

"(8) section 612 of the Education of the Handicapped Act (20 U.S.C. 1412);

"(9) sections 704 and 705 of the Emergency School Aid Act (20 U.S.C. 1603 and 1604);

"(10) section 713 of the Education Amendments of 1974 (20 U.S.C. 1943);

"(11) sections 404, 501(d), and 502(g) of the Rehabilitation Act of 1973 (29 U.S.C. 784, 791(d), and 792(g));

"(12) section 3646 of the Revised Statutes (31 U.S.C. 528(c));

"(13) section 40 of the Act of August 10, 1965, as amended (31 U.S.C. 649c);

"(14) sections 3 and 5 of the Act of July 25, 1956 (31 U.S.C. 705 and 706);

"(15) section 103 of the Act of June 6, 1972 (31 U.S.C. 1203);

"(16) section 105(a)(2) of the Act of October 20, 1972 (31 U.S.C. 1224(a)(2));

"(17) section 407(b) of title 37, United States Code;

"(18) section 413 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 5053);

"(19) section 701(b) and (f) of title 10, United States Code;

"(20) section 1 of the Act of July 11, 1947, as amended (31 U.S.C. 132);

"(21) sections 110, 111(d), and 210(f)(5) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 757, 759, and 490(f)(5));

"(22) the final paragraph under the heading 'PUBLIC BUILDINGS ADMINISTRATION' in the Act of May 3, 1945 (59 Stat. 115; 40 U.S.C. 293);

"(23) Public Law 90-469 (82 Stat. 666);

"(24) sections 802(a), 810(b), 810(c)(2), 810(e), and 811(a) of the Public Health Service Act (42 U.S.C. 296a(a), 296e(b), 296e(c)(2), 296e(e) and 296f(a));

"(25) sections 3 and 4(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1772, 1773(b)); and

"(26) sections 2, 3, and 4 of the Act of September 30, 1950 (20 U.S.C. 237, 238, 239)."

CROSS REFERENCES

Dual employment and extra duties imposed by Postmaster General, compensation without regard to this section, see section 3335 of Title 39, The Postal Service.

Restrictions on performance of civil functions by officers on the active list of the Regular Army, Regular Navy, Regular Marine Corps, or Regular Coast Guard, see section 973 of Title 10, Armed Forces.

Time limitation on claims against Government employees who received dual compensation in violation of the dual compensation laws, see section 237a of Title 31, Money and Finance.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5531, 8116 of this title; title 22 sections 2386, 2584; title 39 section 410.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 2-1226, 6-1202, 31-1603, 31-1623 of the District of Columbia Code.

§ 5533. Dual pay from more than one position; limitations; exceptions

(a) Except as provided by subsections (b), (c), and (d) of this section, an individual is not entitled to receive basic pay from more than one position for more than an aggregate of 40 hours of work in one calendar week (Sunday through Saturday).

(b) Except as otherwise provided by subsection (c) of this section, the Civil Service Commission, subject to the supervision and control of the President, may prescribe regulations under which exceptions may be made to the restrictions in subsection (a) of this section when appropriate authority determines that the exceptions are warranted because personal services otherwise cannot be readily obtained.

(c)(1) Unless otherwise authorized by law and except as otherwise provided by paragraph (2) or (4) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position if the pay of one of the positions is paid by the Secretary of the Senate or the Clerk of the House of Representatives, or one of the positions is under the Office of the Architect of the Capitol, and if the aggregate gross pay from the positions exceeds $7,724 a year ($10,540, in the case of pay disbursed by the Secretary of the Senate).

(2) Notwithstanding paragraph (1) of this subsection, appropriated funds are not available for payment to an individual of pay from more than one position, for each of which the pay is disbursed by the Clerk of the House of Representatives, if the aggregate gross pay from those positions exceeds the maximum per annum gross rate of pay authorized to be paid to an employee out of the clerk hire allowance of a Member of the House.

(3) For the purposes of this subsection, "gross pay" means the annual rate of pay (or equivalent thereof in the case of an individual paid on other than an annual basis) received by an individual.

(4) Paragraph (1) of this subsection does not apply to pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same day.

(d) Subsection (a) of this section does not apply to—

(1) pay on a when-actually-employed basis received from more than one consultant or expert position if the pay is not received for the same hours of the same day;

(2) pay consisting of fees paid on other than a time basis;

(3) pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period;

(4) pay paid by the Tennessee Valley Authority to an employee performing part-time or intermittent work in addition to his normal duties when the Authority considers it to be in the interest of efficiency and economy;

(5) pay received by an individual holding a position—

(A) the pay of which is paid by the Secretary of the Senate or the Clerk of the House of Representatives; or

(B) under the Architect of the Capitol;

(6) pay paid by the United States Coast Guard to an employee occupying a part-time position of lamplighter; and

(7) pay within the purview of any of the following statutes:

(A) section 162 of title 2;

(B) section 23(b) of title 13;

(C) section 327 of title 15;

(D) section 907 of title 20;

(E) section 873 of title 33;

(F) section 631 or 631a of title 31, District of Columbia Code; or

(G) section 102 of title 2, Canal Zone Code.

(e)(1) This section does not apply to an individual employed under sections 174j-1 to 174j-7 or 174k of title 40.

(2) Subsection (c) of this section does not apply to pay received by a teacher of the public schools of the District of Columbia for employment in a position during the summer vacation period.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 483; Pub. L. 90-57, § 105(h), July 28, 1967, 81 Stat. 143; Pub. L. 90-206, title II, § 214 (o) Dec. 16, 1967. 81 Stat. 637; Pub. L. 91-510, title IV, § 477(d), Oct. 26, 1970, 84 Stat. 1195; Pub. L. 93-140, § 23, Oct. 26, 1973, 87 Stat. 508; Pub. L. 93-145, § 101, Nov. 1, 1973, 87 Stat. 532; Pub. L. 94-183, § 2(21), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 94-440, title I, § 103, Oct. 1, 1976, 90 Stat. 1443.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3105 (less (e)).	Aug. 19, 1964, Pub. L. 88-448, § 301 (less (e)), 78 Stat. 488.

In subsection (a), the words "an individual" are substituted for "civilian personnel".

In subsection (b), the words "and issue" are omitted as surplusage.

In subsection (c), the words "appropriated funds are not" are substituted for "no funds appropriated by any Act shall be". The words "$2,000 a year" are substituted for "the sum of $2,000 per annum".

In subsection (d)(7)(D), reference to "section 907 of title 20" is substituted for 5 U.S.C. 3105(d)(7)(F) to reflect the scheduled transfer of 5 U.S.C. 2358(b) to title 20.

In subsection (d)(7)(H), the words "of chapter 7" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1976—Subsec. (c)(1). Pub. L. 94-440 inserted "($10,540, in the case of pay disbursed by the Secretary of the Senate)" following "exceeds $7,724 a year".

1975—Subsec. (d)(7). Pub. L. 94-183 struck out subpar. (F), relating to section 3335 (a) or (c) of title 39, and redesignated former subpars. (G) and (H) as (F) and (G), respectively.

1973—Subsec. (c). Pub. L. 93-145 inserted reference to par. (4) in par. (1), and added par. (4).

Subsec. (e). Pub. L. 93-140 designated existing provisions as par. (1), and added par. (2).

1970—Subsec. (c)(1). Pub. L. 91-510 inserted "and except as otherwise provided by paragraph (2) of this section" following "authorized by law" and substituted "if the aggregate gross pay from the positions exceeds $7,724 a year" for "if—

"(A) the pay of one or more of the positions is fixed at a single gross per annum rate, and the aggregate gross pay from the positions exceeds $6,256 a year, or

"(B) the pay of each such position is fixed at a basic rate plus additional compensation authorized by law, and the aggregate basic pay of the positions exceeds $2,000 a year".

Subsec. (c)(2). Pub. L. 91-510 substituted provision making appropriated funds unavailable for payment to an individual of pay from more than one position, for each of which pay is disbursed by the Clerk of the House, if the aggregate gross pay from those positions exceeds the maximum per annum gross rate of pay authorized to be paid to an employee out of clerk hire allowance of a Member of the House for definition of "gross pay", now incorporated in cl. (3).

Subsec. (c)(3). Pub. L. 91-510 redesignated former cl. (2) as (3) and deleted provision which included in gross pay of an individual receiving basic pay plus additional compensation provided by law the aggregate amount received as basic and additional compensation, but excluded sums received as premium pay under subchapter V of this chapter.

1967—Subsec. (c). Pub. L. 90-206 provided for an increase in the aggregate gross pay allowed to certain specified congressional employees on two payrolls as dual office compensation.

Pub. L. 90-57 designated existing dual pay limitation provisions relating to basic compensation as par. (1), redesignated cls. (1) and (2) as (A) and (B), eliminated from cl. (A) provision for pay for one of the positions by the Secretary of the Senate and restricted such cl. (A) to payments in case of employees receiving basic rates of compensation and added par. (2) dual pay limitations applicable to aggregate gross compensation of employees receiving single per annum rates of compensation.

Effective Date of 1970 Amendment

Amendment by Pub. L. 91-510 effective immediately prior to noon on Jan. 3, 1971, see section 601(1) of Pub. L. 91-510, set out as a note under section 72a of Title 2, The Congress.

Effective Date of 1967 Amendments

Amendment by Pub. L. 90-206 effective at the beginning of the first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90-206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

Amendment by Pub. L. 90-57, effective Aug. 1, 1967, see section 105(k) of Pub. L. 90-57, set out as a note under section 61-1 of Title 2, The Congress.

1976 Increase in Compensation of Individuals Whose Pay is Disbursed by the Secretary of the Senate

The figure "$10,540" in subsec. (c)(1) of this section to be deemed to refer, effective Oct. 1, 1976, to the figure "$11,050", see section 9 of the Salary Directive of the President pro tempore of the Senate, Oct. 8, 1976, set out as a note under section 60a-1 of Title 2, The Congress.

1972 Increase in Compensation of Individuals Whose Pay is Disbursed by the Secretary of the Senate.

The figure "7,724" in subsection (c)(1) of this section, deemed to refer, effective Jan. 1, 1973, to the figure "9,080", see section 9 of the Salary Directive of the President pro tempore of the Senate, Dec. 16, 1972, set out as a note under section 60a-1 of Title 2, The Congress.

1971 Increases in Compensation of Individuals Whose Pay is Disbursed by the Secretary of the Senate

The figure "7,724" in subsection (c)(1) of this section, deemed to refer, effective Jan. 1, 1972, to the figure "8,637", see section 9 of the Salary Directive of the President pro tempore of the Senate, Dec. 23, 1971, set out as a note under section 60a-1 of Title 2, The Congress.

The figure "7,724" in subsection (c)(1) of this section, deemed to refer, effective Feb. 1, 1971, to the figure "8,187", see section 9 of the Salary Directive of the President pro tempore of the Senate, Jan. 15, 1971, set out as a note under section 60a-1 of Title 2, The Congress.

1970 Increase in Pay Rates of Certain Employees of the Legislative Branch

Adjustment by the President pro tempore of the Senate with respect to the United States Senate, by the Finance Clerk of the House of Representatives with respect to the United States House of Representatives, and by the Architect of the Capitol with respect to the Office of the Architect of the Capitol, effective on the first day of the first pay period which begins on or after Dec. 27, 1969, of the rates of pay of employees of the legislative branch subject to section 214 of Pub. L. 90-206 with certain exceptions, by the amounts of the adjustment for corresponding rates for employees subject to the General Schedule, set out in section 5332 of this title, which had been made by section 2 of Pub. L. 91-231 raising such rates by 6 percent, see Pub. L. 91-231, set out as a note under section 5332 of this title.

1969 Increase in Compensation of Individuals Whose Pay Is Disbursed by the Secretary of the Senate

The figure "6,662" in subsection (c)(1)(A) of this section, as increased by Order of June 12, 1968, deemed, on and after July 1, 1969, to refer to the figure "7,287", see section 4(d) of the Salary Directive of the President pro tempore of the Senate, June 17, 1969, set out as a note under section 60a-1 of Title 2, The Congress.

1968 Increase in Compensation of Individuals Whose Pay Is Disbursed by the Secretary of the Senate

The figure "6,256" in subsection (c)(1)(A) of this section deemed to refer, on and after July 1, 1968, to the figure "6,622", see section 1(i) of the Salary Directive of the President pro tempore of the Senate, June 12, 1968, set out as a note under section 60a-1 of Title 2, The Congress.

Cross References

Dual employment and extra duties imposed by Postmaster General, compensation without regard to this section, see section 3335 of Title 39, The Postal Service.

Time limitation on claims against Government employees who received dual compensation in violation of the dual compensation laws, see section 237a of Title 31, Money and Finance.

Section Referred to in Other Sections

This section is referred to in section 5531 of this title; title 2 section 162; title 13 section 23; title 22 section 2396; title 39 section 1001.

Section Referred to in D.C. Code

This section is referred to in sections 1-321, 31-631, 31-631a, 31-1603, 31-1623 of the District of Columbia Code.

§ 5534. Dual employment and pay of Reserves and National Guardsmen

A Reserve of the armed forces or member of the National Guard may accept a civilian office or position under the Government of the United States or the government of the District of Columbia, and he is entitled to receive the pay of that office or position in addition to pay and allowances as a Reserve or member of the National Guard.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 484.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 30r(c) (1st sentence).	Aug. 10, 1956, ch. 1041, § 29(c) (1st sentence), 70A Stat. 632.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5534a. Dual employment and pay during terminal leave from uniformed services

A member of a uniformed service who has performed active service and who is on terminal leave pending separation from, or release from active duty in, that service under honorable conditions may accept a civilian office or position in the Government of the United States, its territories or possessions, or the government of the District of Columbia, and he is entitled to receive the pay of that office or position in addition to pay and allowances from the uniformed service for the unexpired portion of the terminal leave.

(Added Pub. L. 90-83, § 1(22), Sept. 11, 1967, 81 Stat. 199.)

Historical and Revision Notes

This section amends chapter 55 of title 5, United States Code, by inserting a new section 5534a. This section is based on subsections (a) and (f) of former 5 U.S.C. 61a-1 the source statute for which (act of Nov. 21, 1945, ch. 489, 59 Stat. 584) was repealed by the act of September 6, 1966, Public Law 89-554 (sec. 8, 80 Stat. 653). Senate Report 1380, 89th Congress, second session, pages 449, 511, explains that the source was repealed since it had been rendered obsolete by section 4(c) of the Armed Forces Leave Act of 1946, as amended (37 U.S.C. 501), and section 219(c) of the Public Health Service Act, as added August 9, 1950 (ch. 654, sec. 2, 64 Stat. 426; 42 U.S.C. 210-1(c)), and that any existing rights are preserved by section 8 of Public Law 89-554.

At the time of enactment of the act of November 21, 1945, there was no authority to make lump-sum leave payments to members of the uniformed services who were being separated from or released from active duty in the uniformed services. Accordingly, they were placed on terminal leave until the expiration of the unused portion of their accumulated and current accrued leave, and only then separated or released. The act of November 21, 1945, in part, authorized the employment of these members during terminal leave and provided they were entitled to receive, in addition to the payment from the employment, military pay and allowances for the unexpired portion of the terminal leave. The Armed Forces Leave Act of 1946 authorized lump-sum leave payments of unused accumulated and current accrued leave. Generally, thereafter, members of the uniformed services were not placed on terminal leave, but were separated and paid a lump-sum leave payment. However, in certain instances a member may be placed on terminal leave. Such a case was considered recently by the Comptroller General of the United States (see B-157500, Oct. 13, 1965, 45 Comp. Gen. 180. In view of the foregoing, it is concluded that subsection (a) of former 5 U.S.C. 61a-1 had prospective effect and should have been reenacted in title 5, U.S.C., by Public Law 89-554.

In section 5534a, the words "A member of a uniformed service who has performed active service" are substituted for "Any person, who, shall have performed active service in the Armed Forces" to conform to the style of title 5 and the definition of "uniformed services" in 5 U.S.C. 2101 which is coextensive with the definition of "armed forces" in subsection (f) of former 5 U.S.C. 61a-1. Reorganization Plan No. 2 of 1965 (79 Stat. 1318), effective July 13, 1965, consolidated the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration. The words "subsequent to May 1, 1940" are omitted as executed. The word "territories" is substituted for "Territories" inasmuch as there now are no incorporated territories. The words "(including any corporation created under authority of an act of Congress which is either wholly controlled or wholly owned by the Government of the United States, or any department, agency, or establishment thereof, whether or not the employees thereof are paid from funds appropriated by Congress)" are omitted as included in "a civilian office or position in the Government of the United States". The word "pay" is substituted for "compensation."

Effective Date

Section effective Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

§ 5535. Extra pay for details prohibited

(a) An officer may not receive pay in addition to the pay for his regular office for performing the duties of a vacant office as authorized by sections 3345-3347 of this title.

(b) An employee may not receive—

(1) additional pay or allowances for performing the duties of another employee; or

(2) pay in addition to the regular pay received for employment held before his appointment or designation as acting for or instead of an occupant of another position or employment.

This subsection does not prevent a regular and permanent appointment by promotion from a lower to a higher grade of employment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 484.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 9	R.S. § 182.
(b)	5 U.S.C. 69 (1st 34 words).	R.S. § 1764 (1st 34 words).
	5 U.S.C. 72	Aug. 1, 1914, ch. 223, § 12, 38 Stat. 680.

Subsection (a) was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title but is not repealed.

In subsection (a), the words "regular office" are coextensive with and substituted for "proper office".

In subsection (b), former sections 69 (1st 34 words) and 72 are combined and restated for clarity and conciseness. The word "employee" is coextensive with and substituted for "officer or clerk", "officer or clerk in the same or any other department", and "person employed in the service of the United States". The words "under any general or lump-sum appropriation" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Dual employment compensation without regard to this section, see section 1001 of Title 39, Postal Service.

Time limitation on claims against Government employees who received dual compensation in violation of the dual compensation laws, see section 237a of Title 31, Money and Finance.

Section Referred to in Other Sections

This section is referred to in title 39 section 1001.

§ 5536. Extra pay for extra services prohibited

An employee or a member of a uniformed service whose pay or allowance is fixed by statute or regulation may not receive additional pay or allowance for the disbursement of public money or for any other service or duty, unless specifically authorized by law and the appropriation therefor specifically states that it is for the additional pay or allowance.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 484.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 51	R.S. § 170.
....	5 U.S.C. 69 (less 1st 34 words).	R.S. § 1764 (less 1st 34 words).
....	5 U.S.C. 70	R.S. § 1765.
....	5 U.S.C. 71	June 20, 1874, ch. 328, § 3, 18 Stat. 109. Sept. 3, 1954, ch. 1263, § 7, 68 Stat. 1228.

Sections are consolidated as R.S. § 1765 includes the scope of R.S. § 170, R.S. § 1764, and the Act of June 20, 1874, as amended. So much of R.S. § 1764 as relates to details is covered by section 5535.

R.S. § 170 was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from his title but is not repealed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Allowance of living quarters, including heat, fuel, and light, to employees having permanent stations in a foreign country, see section 5912 of this title, and section 291 of Title 22, Foreign Relations and Intercourse.

Authorization and payment of benefits to employees detailed to international organizations deemed to comply with this section, see section 3343 of this title.

Time limitation on claims against Government employees who received dual compensation in violation of the dual compensation laws, see section 237a of Title 31, Money and Finance.

Dual employment and extra duties imposed by Postmaster General, compensation without regard to this section, see section 1001 of Title 39, Postal Service.

Peace Corps program, benefits of personnel detailed to foreign governments or international organizations as meeting requirements of this section, see section 2513 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3343, 5922, 5942, 5947 of this title; title 22 sections 287e-1, 391, 1131, 2389, 2513; title 31 section 546; title 39 section 1001.

§ 5537. Fees for jury and witness service

(a) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia may not receive fees for service—

(1) as a juror in a court of the United States or the District of Columbia; or

(2) as a witness on behalf of the United States or the District of Columbia.

(b) An official of a court of the United States or the District of Columbia may not receive witness fees for attendance before a court, commissioner, or magistrate where he is officiating.

(c) For the purpose of this section, "court of the United States" has the meaning given it by section 451 of title 28 and includes the United States District Court for the District of the Canal Zone, the District Court of Guam, and the District Court of the Virgin Islands.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 484; Pub. L. 90-623, § 1(12), Oct. 22, 1968, 82 Stat. 1312; Pub. L. 91-563, § 3(a), Dec. 19, 1970, 84 Stat. 1477.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 30o	June 29, 1940, ch. 446, § 2, 54 Stat. 689.

The words "fees for jury service" are coextensive with and substituted for "compensation for such service".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1970—Catchline. Pub. L. 91-563 substituted "jury and witness service" for "jury service in courts of the United States".

Subsec. (a). Pub. L. 91-563 designated existing provisions as subsec. (a), inserted provisions prohibiting payment of fees for jury service in a court of the District of Columbia or for service as a witness on behalf of the United States or the District of Columbia, and excepted employees whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

Subsecs. (b), (c). Pub. L. 91-563 added subsecs. (b) and (c).

1968—Pub. L. 90-623 inserted ", who is entitled to leave under section 6322 of this title," following "individual employed by the government of the District of Columbia".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

SUBCHAPTER V—PREMIUM PAY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 5533 of this title and in title 2 section 167.

§ 5541. Definitions

For the purpose of this subchapter—

(1) "agency" means—

(A) an Executive agency;

(B) a military department;

(C) an agency in the judicial branch;

(D) the Library of Congress;

(E) the Botanic Garden;

(F) the Office of the Architect of the Capitol; and

(G) the government of the District of Columbia; and

(2) "employee" means—

(A) an employee in or under an Executive agency;

(B) an individual employed by the government of the District of Columbia; and

(C) an employee in or under the judicial branch, the Library of Congress, the Botanic Garden, and the Office of the Architect of the Capitol, who occupies a position subject to chapter 51 and subchapter III of chapter 53 of this title;

but does not include—

(i) a justice or judge of the United States;

(ii) the head of an agency other than the government of the District of Columbia;

(iii) a teacher, school official, or employee of the Board of Education of the District of Columbia, whose pay is fixed under chapter 15 of title 31, District of Columbia Code;

(iv) a member of the Metropolitan Police, the Fire Department of the District of Columbia, the United States Park Police, or the Executive Protective Service;

(v) a student-employee as defined by section 5351 of this title;

[(vi) Repealed. Pub. L. 91-375, § 6(c)(16), Aug. 12, 1970, 84 Stat. 776;]

(vii) an employee outside the continental United States or in Alaska who is paid in accordance with local native prevailing wage rates for the area in which employed;

(viii) an employee of the Tennessee Valley Authority;

(ix) an individual to whom section 1291(a) of title 50, appendix, applies;

(x) an employee of a Federal land bank, a Federal intermediate credit bank, or a bank for cooperatives;

(xi) an employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under subchapter IV of chapter 53 of this title, or by a wage board or similar administrative authority serving the same purpose, except as provided by section 5544 of this title;

(xii) an employee of the Transportation Corps of the Army on a vessel operated by the United States, a vessel employee of the Environmental Science Services Administration, a vessel employee of the Department of the Interior, or a vessel employee of the Panama Canal Company; or

(xiii) a "teacher" or an individual holding a "teaching position" as defined by section 901 of title 20.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 485; Pub. L. 90-83, § 1(4), Sept. 11, 1967, 81 Stat. 196; Pub. L. 91-375, § 6(c)(16), Aug. 12, 1970, 84 Stat. 776; Pub. L. 92-392, § 4, Aug. 14, 1972, 86 Stat. 573; Pub. L. 94-183, § 2(22), Dec. 31, 1975, 89 Stat. 1058.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 901(a), (d), (e)	June 30, 1945, ch. 212 § 101(a), (d), (e), 59 Stat. 295, 296. Sept. 1, 1954, ch. 1208, § 202(a), 68 Stat. 1109.
....	5 U.S.C. 902 (less clause (1) and last sentence of (a)).	June 30, 1945, ch. 212, § 102 (less clause (1) and last sentence of (a)), 59 Stat. 296. May 24, 1946, ch. 270, § 8(a), 60 Stat. 218. Aug. 4, 1947, ch. 452, § 1, 61 Stat. 727. Aug. 18, 1959, Pub. L. 86-168, § 202(c) 73 Stat. 389.
....	5 U.S.C. 2358(a) (as applicable to the Federal Employees Pay Act of 1945, as amended).	July 17, 1959, Pub. L. 86-91, § 10(a) (as applicable to the Federal Employees Pay Act of 1945, as amended), 73 Stat. 217.

The section is revised as a definition section. The provisions of former section 901(d) are omitted as unnecessary because the sections referred to state their application and there is no need to restate the application here.

In paragraph (1), the terms "Executive agency" and "military department" are substituted for the references in former section 901(a) and (e) to the executive branch, including Government-owned or controlled corporations, and the General Accounting Office in view of the definitions in sections 105 and 102.

In paragraph (2)(iii), the words "chapter 15 of title 31, District of Columbia Code" are substituted for the reference in former section 902(a)(4) to "the Teachers Salary Act of June 4, 1924, as amended" on authority of the provisions contained therein. Enumeration of the individuals to which the provisions apply are added.

In paragraph (2)(iv), the provisions of former section 902(a)(5) and (b)(6) are combined.

In paragraph (2)(v), the words "student-employee as defined by section 5351 of this title" are coextensive with and substituted for the enumeration of the employees in former section 902(a)(6).

In paragraph (2)(iv), (vi), (vii), (viii), (ix), (xi), and (xii), the reference to former section 947 is omitted as that section was repealed by the Act of Sept. 12, 1950, ch. 946, § 301(85), 64 Stat. 843.

In paragraph (2)(xii), the reference to former section 946 is omitted as unnecessary since that section is not carried into this subchapter. The words "Panama Canal Company" are substituted for "Panama Railroad Company" on authority of the Act of Sept. 2, 1950, ch. 1049, § 2(a)(2), 64 Stat. 1038.

In paragraph (2)(xiii), the words "as defined by section 901 of title 20" are added on authority of former section 2351, which section is scheduled for transfer to section 901 of title 20.

The exception for officers and employees of the Inland Waterways Corporation in former section 902(b)(3) is omitted on authority of the Act of July 19, 1963, Pub. L. 88-67, 77 Stat. 81.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Par. (2)(iv). Pub. L. 94-183 substituted "Executive Protective Service" for "White House Police".

1972—Par. (2)(xi). Pub. L. 92-392 substituted "pay" for "basic pay" and provided for determination of pay under subchapter IV of chapter 53 of this title.

1970—Par. (2)(vi). Pub. L. 91-375 repealed cl. (vi) excluding an employee in the postal field service from the definition of "employee".

1967—Pub. L. 90-83 substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey" in subd. (2)(xii). See Reviser's Note under section 2201 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of the Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Service, the National Environmental Satellite Center, and the ESSA Research Laboratories.

CROSS REFERENCES

Coast Guard civilian instructors, see section 186 of Title 14, Coast Guard.

Compensation of federal judges, see sections 5, 44, 135, 173, 213, and 252 of Title 28, Judiciary and Judicial Procedure.

Compensation of officers and employees of the Tennessee Valley Authority, see sections 831a, 831b of Title 16, Conservation.

Compensation of White House police force, see section 204 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5504, 6101 of this title.

§ 5542. Overtime rates; computation

(a) For full-time, part-time and intermittent tours of duty, hours of work officially ordered or approved in excess of 40 hours in an administrative workweek, or (with the exception of an employee engaged in professional or technical engineering or scientific activities for whom the first 40 hours of duty in an administrative workweek is the basic workweek and an employee whose basic pay exceeds the minimum rate for GS-10 for whom the first 40 hours of duty in an administrative workweek is the basic workweek) in excess of 8 hours in a day, performed by an employee are overtime work and shall be paid for, except as otherwise provided by this subchapter, at the following rates:

(1) For an employee whose basic pay is at a rate which does not exceed the minimum rate of basic pay for GS-10, the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(2) For an employee whose basic pay is at a rate which exceeds the minimum rate of basic pay for GS-10, the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of the minimum rate of basic pay for GS-10, and all that amount is premium pay.

(3) Notwithstanding paragraphs (1) and (2) of this subsection for an employee of the Department of Transportation who occupies a nonmanagerial position in GS-14 or under and, as determined by the Secretary of Transportation,

(A) the duties of which are critical to the immediate daily operation of the air traffic control system, directly affect aviation safety, and involve physical or mental strain or hardship;

(B) in which overtime work is therefore unusually taxing; and

(C) in which operating requirements cannot be met without substantial overtime work;

the overtime hourly rate of pay is an amount equal to one and one-half times the hourly rate of basic pay of the employee, and all that amount is premium pay.

(b) For the purpose of this subchapter—

(1) unscheduled overtime work performed by an employee on a day when work was not scheduled for him, or for which he is required to return to his place of employment, is deemed at least 2 hours in duration; and

(2) time spent in a travel status away from the official-duty station of an employee is not hours of employment unless—

(A) the time spent is within the days and hours of the regularly scheduled administrative workweek of the employee, including regularly scheduled overtime hours; or

(B) the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 485; Pub. L. 90-83, § 1(24), Sept. 11, 1967, 81 Stat. 200; Pub. L. 90-206, title II, § 222(a), Dec. 16, 1967, 81 Stat. 641; Pub. L. 90-556, § 1, Oct. 10, 1968, 82 Stat. 969; Pub. L. 92-194, Dec. 15, 1971, 85 Stat. 648.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 911	June 30, 1945, ch. 212, § 201, 59 Stat. 296. Sept. 1, 1954, ch. 1208, § 203, 68 Stat. 1109.
(b)	5 U.S.C. 912a 5 U.S.C. 912b	Sept. 1, 1954, ch. 1208, § 205(b), 68 Stat. 1110.

In subsection (a)(1), and (2), the word "officer" is omitted as included in "employee". The word "scheduled" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. References to the "Classification Act of 1949, as amended" are omitted as unnecessary.

In subsection (b), former sections 912a and 912b are combined and restated.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5542(a)	5 App.: 911	July 18, 1966, Pub. L. 89-504, § 404(a), 80 Stat. 297.

The words "of the Classification Act of 1949, as amended" are omitted as unnecessary.

AMENDMENTS

1971—Subsec. (a). Pub. L. 92-194 substituted "For full-time, part-time and intermittent tours of duty, hours" for "Hours".

1968—Subsec. (a)(3). Pub. L. 90-556 added par. (3).

1967—Subsec. (b)(2)(B). Pub. L. 90-206 denominated existing provisions as clauses (i) and (iii) and added clauses (ii) and (iv).

EFFECTIVE DATE OF 1968 AMENDMENT

Section 3 of Pub. L. 90-556 provided that: "The amendments made by this Act [enacting subsec. (a)(3) of this section and section 5545(c)(1) of this title] shall take effect on the first day of the first pay period which begins on or after the thirtieth day after the date of enactment of this Act [Oct. 10, 1968]."

EFFECTIVE DATE OF 1967 AMENDMENT

Section 220(a)(4) of Pub. L. 90-206 provided that, except as otherwise expressly provided: "Sections 222 [which enacted section 5733 of this title, amended this section and section 5544 of this title, and section 3571 of Title 39, The Postal Service], and 223 [which enacted section 5345 of this title] shall become effective thirty days after the date of enactment of this title [Dec. 16, 1967]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5543, 5545, 5546, 5547 of this title; title 14 section 432; title 15 section 278e; title 32 section 709.

§ 5543. Compensatory time off

(a) The head of an agency may—

(1) on request of an employee, grant the employee compensatory time off from his scheduled tour of duty instead of payment for an equal amount of time spent in irregular or occasional overtime work; and

(2) provide that an employee whose rate of basic pay is in excess of the maximum rate of basic pay for GS-10 shall be granted compensatory time off from his scheduled tour of duty equal to the amount of time spent in ir-

regular or occasional overtime work instead of being paid for that work under section 5542 of this title.

(b) The Architect of the Capitol may grant an employee paid on an annual basis compensatory time off from duty instead of overtime pay for overtime work.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 486; Pub. L. 90-83, § 1(25), Sept. 11, 1967, 81 Stat. 200.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 912	June 30, 1945, ch. 212, § 202, 59 Stat. 297. May 24, 1946, ch. 270, § 9, 60 Stat. 218. Sept. 1, 1954, ch. 1208, § 204, 68 Stat. 1109.

In subsection (a), the words "head of an agency" are substituted for "head of any department, independent establishment, or agency, including Government-owned or controlled corporations, or of the municipal government of the District of Columbia, or the head of any legislative or judicial agency to which this subchapter applies" because of the definition of "agency" and the application stated in section 5541.

In subsection (a)(1), the word "officer" is omitted as included in "employee".

In subsection (a)(2), the words "at his own discretion" are omitted as unnecessary in view of the permissive nature of the authority. The word "officer" is omitted as included in "employee". The word "scheduled" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the "Classification Act of 1949, as amended" is omitted as unnecessary.

In subsection (b), the words "in his discretion" are ommitted as unnecessary in view of the permissive nature of the authority. The words "overtime work" are substituted for "any work in excess of forty hours in any regularly scheduled administrative workweek" because of the definition of "overtime work" in section 5542(a).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5543(a)(2)	5 App.: 912	July 18, 1966, Pub. L. 89-504, § 404(b), 80 Stat. 297.

Section Referred to in Other Sections

This section is referred to in title 14 section 432; title 15 section 278e; title 32 section 709.

§ 5544. Wage-board overtime and Sunday rates; computation

(a) An employee whose pay is fixed and adjusted from time to time in accordance with prevailing rates under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, is entitled to overtime pay for overtime work in excess of 8 hours a day or 40 hours a week. However, an employee subject to this subsection who regularly is required to remain at or within the confines of his post of duty in excess of 8 hours a day in a standby or on-call status is entitled to overtime pay only for hours of duty, exclusive of eating and sleeping time, in excess of 40 a week. The overtime hourly rate of pay is computed as follows:

(1) If the basic rate of pay of the employee is fixed on a basis other than an annual or monthly basis, multiply the basic hourly rate of pay by not less than one and one-half.

(2) If the basic rate of pay of the employee is fixed on an annual basis, divide the basic annual rate of pay by 2,080, and multiply the quotient by one and one-half.

(3) If the basic rate of pay of the employee is fixed on a monthly basis, multiply the basic monthly rate of pay by 12 to derive a basic annual rate of pay, divide the basic annual rate of pay by 2,080, and multiply the quotient by one and one-half.

An employee subject to this subsection whose regular work schedule includes an 8-hour period of service a part of which is on Sunday is entitled to additional pay at the rate of 25 percent of his hourly rate of basic pay for each hour of work performed during that 8-hour period of service. Time spent in a travel status away from the official duty station of an employee subject to this subsection is not hours of work unless the travel (i) involves the performance of work while traveling, (ii) is incident to travel that involves the performance of work while traveling, (iii) is carried out under arduous conditions, or (iv) results from an event which could not be scheduled or controlled administratively.

(b) An employee under the Office of the Architect of the Capitol who is paid on a daily or hourly basis and who is not subject to chapter 51 and subchapter III of chapter 53 of this title is entitled to overtime pay for overtime work in accordance with subsection (a) of this section. The overtime hourly rate of pay is computed in accordance with subsection (a)(1) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 486; Pub. L. 90-83, § 1(26)(A), Sept. 11, 1967, 81 Stat. 200; Pub. L. 90-206, title II, § 222(d), Dec. 16, 1967, 81 Stat. 641; Pub. L. 92-392, § 5, Aug. 19, 1972, 86 Stat. 573.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 673c (2d proviso)	Mar. 28, 1934, ch. 102, § 23 (proviso), 48 Stat. 522. Aug. 13, 1962, Pub. L. 87-581, § 201 (2d proviso), 76 Stat. 360.
	5 U.S.C. 913	June 30, 1945, ch. 212, § 203, Stat. 297. Sept. 1, 1954, ch. 1208, § 205(a), 68 Stat. 1109.
(b) .	5 U.S.C. 933 (as applicable to 5 U.S.C. 673c)	June 30, 1945, ch. 212, § 503 (as applicable to § 23 of the Act of Mar. 28, 1934, ch. 102, 48 Stat. 522, as amended), 59 Stat. 301.

In subsection (a), former sections 673c (2d proviso) and 913 are combined and restated for clarity and conciseness. The last 28 words of section 205(a) of the Act of Sept. 1, 1954, 68 Stat. 1109, are omitted as executed and covered by technical section 8.

Subsection (b) is restated to conform to subsection (a). In former section 933, the words "Classification Act of 1949" were substituted for "Classification Act of 1923" on authority of section 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5544(a)	5 App.: 673c (last proviso of 1st par.).	July 18, 1966, Pub. L. 89-504, § 405(f), 80 Stat. 298.

The words "a part of which is on Sunday" are coextensive with and substituted for "any part of which is within the period commencing at midnight Saturday and ending at midnight Sunday." The words "is entitled to additional pay" are coextensive with and substituted for "shall be paid extra compensation."

AMENDMENTS

1972—Subsec. (a). Pub. L. 92-392 substituted "pay" for "basic pay" and provided for determination of pay under section 5343 or 5349 of this title.

1967—Subsec. (a). Pub. L. 90-206 provided that time spent in a travel status away from the official duty station could not qualify as hours of work unless the travel involved the performance of work while traveling, was incident to travel involving the performance of work while traveling, carried out under arduous conditions, or resulting from an event which could not be scheduled or controlled administratively.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective thirty days after Dec. 16, 1967, see section 220(a)(4) of Pub. L. 90-206, set out as a note under section 5542 of this title.

CANAL ZONE EMPLOYEES

Section 17(3) of Pub. L. 85-550, July 25, 1958, 72 Stat. 411, provided that nothing in Pub. L. 85-550, which related to wage and employment practices of the Government of the United States in the Canal Zone, should affect the applicability of former sections 673c and 913 of this title [now covered by this section] to those classes of employees, within the scope of former sections 673c and 913 of this title [now covered by this section] on July 25, 1958.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5541, 5548, 5550 of this title; title 2 section 60e-2b; title 14 section 432; title 15 section 278e; title 32 section 709.

§ 5545. Night, standby, irregular, and hazardous duty differential

(a) Except as provided by subsection (b) of this section, nightwork is regularly scheduled work between the hours of 6:00 p.m. and 6:00 a.m., and includes—

(1) periods of absence with pay during these hours due to holidays; and

(2) periods of leave with pay during these hours if the periods of leave with pay during a pay period total less than 8 hours.

Except as otherwise provided by subsection (c) of this section, an employee is entitled to pay for nightwork at his rate of basic pay plus premium pay amounting to 10 percent of that basic rate. This subsection and subsection (b) of this section do not modify section 180 of title 31, or other statute authorizing additional pay for nightwork.

(b) The head of an agency may designate a time after 6:00 p.m. and a time before 6:00 a.m. as the beginning and end, respectively, of nightwork for the purpose of subsection (a) of this section, at a post outside the United States where the customary hours of business extend into the hours of nightwork provided by subsection (a) of this section.

(c) The head of an agency, with the approval of the Civil Service Commission, may provide that—

(1) an employee in a position requiring him regularly to remain at, or within the confines of, his station during longer than ordinary periods of duty, a substantial part of which consists of remaining in a standby status rather than performing work, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for irregular, unscheduled overtime duty in excess of his regularly scheduled weekly tour. Premium pay under this paragraph is determined as an appropriate percentage, not in excess of 25 percent, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS-10 (or, for a position described in section 5542(a)(3) of this title, of the basic pay of the position), by taking into consideration the number of hours of actual work required in the position, the number of hours required in a standby status at or within the confines of the station, the extent to which the duties of the position are made more onerous by night, Sunday, or holiday work, or by being extended over periods of more than 40 hours a week, and other relevant factors; or

(2) an employee in a position in which the hours of duty cannot be controlled administratively, and which requires substantial amounts of irregular, unscheduled, overtime duty with the employee generally being responsible for recognizing, without supervision, circumstances which require him to remain on duty, shall receive premium pay for this duty on an annual basis instead of premium pay provided by other provisions of this subchapter, except for regularly scheduled overtime, night, and Sunday duty, and for holiday duty. Premium pay under this paragraph is determined as an appropriate percentage, not less than 10 per centum nor more than 25 per centum, of such part of the rate of basic pay for the position as does not exceed the minimum rate of basic pay for GS-10, by taking into consideration the frequency and duration of irregular unscheduled overtime duty required in the position.

(d) The Commission shall establish a schedule or schedules of pay differentials for irregular or intermittent duty involving unusual physical hardship or hazard. Under such regulations as the Commission may prescribe, and for such minimum periods as it determines appropriate, an employee to whom chapter 51 and subchapter III of chapter 53 of this title applies is entitled to be paid the appropriate differential for any period in which he is subjected to physical hardship or hazard not usually involved in carrying out the duties of his position. However, the pay differential—

(1) does not apply to an employee in a position the classification of which takes into account the degree of physical hardship or hazard involved in the performance of the duties thereof; and

(2) may not exceed an amount equal to 25 percent of the rate of basic pay applicable to the employee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 487; Pub. L. 90-83, § 1(27), Sept. 11, 1967, 81 Stat. 200; Pub. L. 90-206, title II, § 217, Dec. 16, 1967, 81 Stat. 638; Pub. L. 90-556, § 2, Oct. 10, 1968, 82 Stat. 969; Pub. L. 91-231, § 8, Apr. 15, 1970, 84 Stat. 198; Pub. L. 94-183, § 2(23), Dec. 31, 1975, 89 Stat. 1058.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 921	June 30, 1945, ch. 212, § 301, 59 Stat. 298. May 24, 1946, ch. 270, § 10, 60 Stat. 218. Sept. 1, 1954, ch. 1208, § 206, 68 Stat. 1110.
(c)	5 U.S.C. 926	Sept. 1, 1954, ch. 1208, § 208(a), 68 Stat. 1111. July 18, 1958, Pub. L. 85-525, 72 Stat. 363.

In subsection (b), the words "head of an agency" are substituted for "head of any department, independent establishment, or agency, including Government-owned or controlled corporations" because of the definition of "agency" and the application stated in section 5541. The words "the United States" are substituted for "the several States and the District of Columbia".

In subsection (c), the words "head of an agency" are substituted for "head of any department, independent establishment, or agency, including Government-owned or controlled corporations, or of the municipal government of the District of Columbia" because of the definition of "agency" and the application stated in section 5541. The word "officer" is omitted as included in "employee". The word "scheduled" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the "Classification Act of 1949, as amended" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5545(c)	5 App.: 926	July 18, 1966, Pub. L. 89-504 §§ 404(c), 405(d), (e), 80 Stat. 297, 298.
5545(d)	5 App.: 1134	July 19, 1966, Pub. L. 89-512, § 1, 80 Stat. 318.

In the second sentence of subsection (d), the words "Under such regulations as the Commission may prescribe, and for such minimum periods as it determines appropriate" are substituted for clauses (3) and (4) of the third sentence of 5 App. U.S.C. 1134. That requirement in clause (4) that the Commission prescribe regulations is codified in 5 U.S.C. 5548(b) by section 1 (32) of this bill. The words "an employee to whom chapter 51 and subchapter III of chapter 53 of this title applies is entitled to be paid the appropriate differential" are substituted for "The appropriate differential shall be paid to any officer or employee to whom this Act applies" to reflect the codification of that act (Classification Act of 1949) in title 5, United States Code, and to conform with the definitions applicable.

In subsection (d)(1), the words "does not apply to an employee" are substituted for "shall not be applicable with respect to any officer or employee."

In subsection (d)(2), the words "may not . . . applicable to the employee" are substituted for "shall not . . . applicable with respect to such officer or employee".

Amendments

1975—Pub. L. 94-183 struck out "Sunday," following "Night," in the section catchline.

1970—Subsec. (c)(2). Pub. L. 91-231 corrected the system of premium compensation of employees whose work schedules cannot be administratively controlled by providing for separate treatment for irregular, unscheduled, and overtime duty on one hand and for duty at night, on Sundays, and on holidays on the other.

1968—Subsec. (c)(1). Pub. L. 90-556 inserted "(or, for a position described in section 5542(a)(3) of this title, of the basic pay of the position)" after "GS-10".

1967—Subsec. (e)(2). Pub. L. 90-206 substituted "not less than 10 percent nor more than 25 percent" for "not in excess of 15 percent".

Effective Date of 1970 Amendment

Amendment by Pub. L. 91-231 effective Apr. 15, 1970, see section 9(b) of Pub. L. 91-231, set out as a note under section 5332 of this title.

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-556 effective on first day of first pay period beginning on or after the thirtieth day after Oct. 10, 1968, see section 3 of Pub. L. 90-556, set out as a note under section 5542 of this title.

Effective Date of 1967 Amendment

Amendment by Pub. L. 90-206 effective at the beginning of the first pay period which begins on or after Dec. 16, 1967, see section 220(a)(3) of Pub. L. 90-206, set out as a note under section 603 of Title 28, Judiciary and Judicial Procedure.

Section Referred to in Other Sections

This section is referred to in sections 5546, 5547, 5548, 5595, 8114, 8331, 8704 of this title; title 14 section 432; title 15 section 278e.

Section Referred to in D.C. Code

This section is referred to in section 8-209 of the District of Columbia Code.

§ 5546. Pay for Sunday and holiday work

(a) An employee who performs work during a regularly scheduled 8-hour period of service which is not overtime work as defined by section 5542(a) of this title a part of which is performed on Sunday is entitled to pay for the entire period of service at the rate of his basic pay, plus premium pay at a rate equal to 25 percent of his rate of basic pay.

(b) An employee who performs work on a holiday designated by Federal Statute, Executive order, or with respect to an employee of the government of the District of Columbia, by order of the District of Columbia Council, is entitled to pay at the rate of his basic pay, plus premium pay at a rate equal to the rate of his basic pay, for that holiday work which is not—

(1) in excess of 8 hours; or

(2) overtime work as defined by section 5542(a) of this title.

(c) An employee who is required to perform any work on a designated holiday is entitled to pay for at least 2 hours of holiday work.

(d) An employee who performs overtime work as defined by section 5542(a) of this title on a Sunday or a designated holiday is entitled to pay for that overtime work in accordance with section 5542(a) of this title.

(e) Premium pay under this section is in addition to premium pay which may be due for the same work under section 5545(a) and (b) of this title, providing premium pay for nightwork.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90-83, § 1(29), Sept. 11, 1967, 81 Stat. 201; Pub. L. 90-623, § 1(13), Oct. 22, 1968, 82 Stat. 1312.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 922	June 30, 1945, ch. 212, § 302, 59 Stat. 298. May 24, 1946, ch. 270, § 11, 60 Stat. 218. Sept. 1, 1954, ch. 1208, § 207, 68 Stat. 1110. July 18, 1958, Pub. L. 85-533, 1, § 72 Stat. 377.

In subsections (a) and (b), the word "officer" is omitted as included in "employee".

In subsections (b) and (c), the word "designated" is substituted for "such a" and "such" in former section 922(b) and (c) to identify the holiday as one designated by statute, Executive order, or the Board of Commissioners of the District of Columbia.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5546(a)	5 App.: 921a	July 18, 1966, Pub. L. 89-504, § 405(b)(1), (c), 80 Stat. 297.

In subsection (a), the words "An employee who performs work . . . is entitled to pay . . . at the rate of his basic pay" are coextensive with and substituted for "Any . . . service . . . performed . . . shall be compensated . . . at the rate of basic compensation of the officer or employee performing such work." The words "section 5542(a) of this title" are substituted for "section 201 of this Act" to reflect the codification of that section in title 5, United States Code. The words "between midnight Saturday and midnight Sunday" are coextensive with and substituted for "within the period commencing at midnight Saturday and ending at midnight Sunday".

AMENDMENTS

1968—Subsec. (b). Pub. L. 90-623, § 1(13)(A), substituted "District of Columbia Council" for "Board of Commissioners of the District of Columbia".

Subsec. (d). Pub. L. 90-623, § 1(13)(B), substituted "5542(a)" for "5442(a)".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, but amendment of subsec. (d) of this section by section 1(13)(B) of Pub. L. 90-623 effective as of Sept. 6, 1966, for all purposes, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

The District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, was abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, classified to section 1-131 of the District of Columbia Code, and replaced by the Council of the District of Columbia, as provided by Pub. L. 93-198, title IV, § 401, Dec. 24, 1973, 87 Stat. 785, classified to section 1-141 of the District of Columbia Code.

CROSS REFERENCES

Legal public holidays, enumeration of, see section 6103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5547 of this title; title 14 section 432; title 15 section 278e.

§ 5547. Limitation on premium pay

An employee may be paid premium pay under sections 5542, 5545(a)-(c), and 5546(a), (b) of this title only to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for GS-15.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90-83, § 1(31), Sept. 11, 1967, 81 Stat. 201.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 943	June 30, 1945, ch. 212, § 603, 59 Stat. 302. May 24, 1946, ch. 270, § 7(a), 60 Stat. 218. July 3, 1948, ch. 830, § 303(a), 62 Stat. 1268. Sept. 1, 1954, ch. 1208, § 209, 68 Stat. 1112.

Former section 943(a), (b) is combined and restated for clarity and conciseness. The word "officer" is omitted as included in "employee". The word "scheduled" is omitted since section 603 of the Act of Oct. 11, 1962, Pub. L. 87-793, 76 Stat. 847, eliminated the necessity of referring to rates as scheduled or longevity. Reference to the "Classification Act of 1949, as amended" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

In the codification of 5 U.S.C. 5547, the words "premium pay under this subchapter" were substituted for "premium compensation provided by this Act" appearing in the source statute—section 603 of the Federal Employees Pay Act of 1945, as amended (former 5 U.S.C. 943). This amendment of 5 U.S.C. 5547 is made for clarity and precision of reference and in recognition that the source statutes for certain sections of subchapter V of chapter 55 of title 5 include statutes that were not a part of the Federal Employees Pay Act of 1949. Specifically, 5 U.S.C. 5544(a) is based in part on section 23 (2d proviso) of the act of March 28, 1934, as amended by 76 Stat. 360; and 5 U.S.C. 5545(d) is based on section 804 of the Classification Act of 1949, as added by Public Law 89-512, 80 Stat. 318. Also, 5 U.S.C. 5541(2)(xi) in effect excludes employees subject to 5 U.S.C. 5544 from the operation of 5 U.S.C. 5547.

§ 5548. Regulations

(a) The Civil Service Commission may prescribe regulations, subject to the approval of the President, necessary for the administration of this subchapter, except section 5545(d) insofar as this subchapter affects employees in or under an Executive agency.

(b) The Commission shall prescribe regulations necessary for the administration of sections 5545(d) and 5550 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 90-83, § 1(32), Sept. 11, 1967, 81 Stat. 201; Pub. L. 92-392, § 12, Aug. 19, 1972, 86 Stat. 575.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 945	June 30, 1945, ch. 212, § 605, 59 Stat. 304.

The words "an Executive agency" are substituted for "the executive branch of the Government" to conform to the definition in section 105. Applicability of this section to employees of the General Accounting Office is based on former section 933a.

The remainder of the authority is covered by sections 5504 and 6101.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Sources (Statutes at Large)*
5548(b)	5 App.: 1072 (as applicable to 5 App.: 1134.)	Oct. 28, 1949, ch. 782, § 1101 (as applicable to § 804, added July 19, 1966, Pub. L. 89-512, § 1, 80 Stat. 318), 63 Stat. 971.
	5 App.: 1134 (4) (6th through 9th words).	July 19, 1966, Pub. L. 89-512, § 1 "Sec. 804(4) (6th through 9th words)", 80 Stat. 318.

This section consolidates into 5 U.S.C. 5548(b) general regulatory authority granted to the Civil Service Commission by section 1101 of the Classification Act of 1949 (as applicable to sec. 804 of that act, added by Public Law 89-512) and the specific requirement in section 804 (4) of that act that the Commission prescribe regulations.

Amendments

1972—Subsec. (a). Pub. L. 92-392, § 12(a), struck out reference to section 5544 of this title.

Subsec. (b). Pub. L. 92-392, § 12(b), included reference to section 5550 of this title.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

Performance of Functions

Function vested in Civil Service Commission under this section to be performed without approval of President, see section 1(1) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

§ 5549. Effect on other statutes

This subchapter does not prevent payment for overtime services or for Sunday or holiday work under any of the following statutes—

(1) section 394 of title 7;

(2) sections 1353a and 1353b of title 8;

(3) sections 261, 267, 1450, 1451, 1451a, and 1452 of title 19;

(4) section 382b of title 46; and

(5) section 154(f)(3) of title 47.

However, an employee may not receive premium pay under this subchapter for the same services for which he is paid under one of these statutes.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 488.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 941	June 30, 1945, ch. 212, § 601, 59 Stat. 302.

In paragraph (2), the words "sections 1353a and 1353b of title 8" are substituted for "sections 342c and 342d of this title" to reflect the scheduled transfer of those sections to title 8.

In paragraph (5), the words "section 154(f)(3) of title 47" are substituted for "section 154(f)(2) of title 47" on authority of the Act of July 16, 1952, ch. 879, § 3(b), 66 Stat. 711, which redesignated subsection (f)(2) as (f)(3).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5550. Pay for Sunday and overtime work; employees of nonappropriated fund instrumentalities

A "prevailing rate employee" described in paragraph (B) of section 5342(a)(2) of this title—

(1) if his regular work schedule includes an 8-hour period of service, a part of which is on Sunday, is entitled to additional pay at the rate of 25 percent of his hourly rate of basic pay for each hour of work performed during that 8-hour period of service;

(2) is entitled to overtime pay for overtime work in excess of 8 hours a day or 40 hours a week, computed in accordance with paragraph (1), (2), or (3), as applicable, of section 5544(a) of this title.

However, any such employee who regularly is required to remain at or within the confines of his post of duty in excess of 8 hours a day in a standby or on-call status is entitled to overtime pay only for hours of duty, exclusive of eating and sleeping time, in excess of 40 a week.

(Added Pub. L. 92-392, § 10(a), Aug. 19, 1972, 86 Stat. 574.)

Effective Date

Section effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

Section Referred to in Other Sections

This section is referred to in sections 2105, 5548 of this title.

SUBCHAPTER VI—PAYMENT FOR ACCUMULATED AND ACCRUED LEAVE

Subchapter Referred to in Other Sections

This subchapter is referred to in section 8331 of this title; title 38 sections 4107, 4118.

§ 5551. Lump-sum payment for accumulated and accrued leave on separation

(a) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, who is separated from the service or elects to receive a lump-sum payment for leave under section 5552 of this title, is entitled to receive a lump-sum payment for accumulated and current accrued annual or vacation leave to which he is entitled by statute. The lump-sum payment shall equal the pay the employee or individual would have received had he remained in the service until expiration of the period of the annual or vacation leave. The lump-sum payment is considered pay for taxation purposes only.

(b) The accumulated and current accrued annual leave to which an officer excepted from subchapter I of chapter 63 of this title by section 6301(2)(x)-(xii) of this title, is entitled immediately before the date he is excepted under that section shall be liquidated by a lump-sum payment in accordance with subsection (a) of this section or subchapter VIII of this chapter, except that the payment is based on the rate of pay which he was receiving, immediately before the date on which section 6301(2)(x)-(xii) of this title became applicable to him.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 488; Pub. L. 93-181, § 1, Dec. 14, 1973, 87 Stat. 705.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 61b (1st, 2d, and 6th sentences).	Dec. 21, 1944, ch. 632, § 1 (less 1st proviso, and less so much of last sentence as precedes 2d proviso), 58 Stat. 845. July 2, 1953, ch. 178, § 4(a) (1st and 5th sentences), 67 Stat. 137.
(b)	5 U.S.C. 2061a(a).	July 2, 1953, ch. 178, § 2(a), 67 Stat. 136.

In subsection (a), the words "An employee as defined by section 2105 of this title" are coextensive with and substituted for "civilian officer or employee of the Federal Government". Reference to "section 1474 of Appendix to Title 50, is omitted in view of the repeal of that section by the Act of July 24, 1956, ch. 671, § 5(a)(3), 70 Stat. 606. The words "and shall not be subject to retirement deductions" are omitted and carried into section 8331(3).

In subsection (b)(2), reference to the limitation imposed by section 5 of the Act of July 2, 1953, ch. 178, 67 Stat. 138, is omitted as obsolete since the limitation was eliminated by the Act of Sept. 2, 1958, Pub. L. 85-914, § 1, 72 Stat. 1761.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-181 struck out exception clause that the lump-sum payment may not exceed pay for a period of annual or vacation leave in excess of 30 days or the number of days carried over to his credit at the beginning of the leave year in which entitlement to payment occurs, whichever is greater.

Subsec. (b). Pub. L. 93-181 struck out the second exception clause that the payment is made without regard to the limitation in subsec. (a) of this section on the amount of leave compensable.

CROSS REFERENCES

Members of armed forces, payments for unused accrued leave, see section 501 of Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5552, 5596, 6304, 6306, 8344 of this title; title 20 section 904; title 22 section 1149.

§ 5552. Lump-sum payment for accumulated and accrued leave on entering active duty; election

An employee as defined by section 2105 of this title or an individual employed by a territory or possession of the United States or the government of the District of Columbia who enters on active duty in the armed forces is entitled to—

(1) receive, in addition to his pay and allowances from the armed forces, a lump-sum payment for accumulated and current accrued annual or vacation leave in accordance with section 5551 of this title; or

(2) elect to have the leave remain to his credit until his return from active duty.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 489.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 61a	Aug. 1, 1941, ch. 348, 55 Stat. 616. Apr. 7, 1942, ch. 220, 56 Stat. 200.

The words "An employee as defined by section 2105 of this title" are coextensive with and substituted for "Employees of the United States Government, . . . (including employees of any corporation created under authority of an Act of Congress which is either wholly controlled or wholly owned by the United States Government, or any corporation, all the stock of which is owned or controlled by the United States Government, or any department, agency, or establishment thereof, whether or not the employees thereof are paid from funds appropriated by Congress)".

The words "subsequent to May 1, 1940" are omitted as obsolete. The words "active duty in the armed forces" and "active duty" are substituted for "active military or naval service in the land or naval forces of the United States" and "active military or naval service", respectively, on authority of the National Security Act of 1947, 61 Stat. 495, as amended. The words "by voluntary enlistment or otherwise" are omitted as unnecessary.

In paragraph (1), the words "in accordance with section 5551 of this title" are added on authority of former section 61b, which is carried into section 5551.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5551, 5596, 6304 of this title.

SUBCHAPTER VII—PAYMENTS TO MISSING EMPLOYEES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5566 and 5567 of this title; title 18 section 1923.

§ 5561. Definitions

For the purpose of this subchapter—

(1) "agency" means an Executive agency and a military department;

(2) "employee" means an employee in or under an agency who is a citizen or national of the United States or an alien admitted to the United States for permanent residence,

but does not include a part-time or intermittent employee or native labor casually hired on an hourly or daily basis. However, such an employee who enters a status listed in paragraph (5)(A)-(E) of this section—

(A) inside the continental United States; or

(B) who is a resident at or in the vicinity of his place of employment in a territory or possession of the United States or in a foreign country and who was not living there solely as a result of his employment;

is an employee for the purpose of this subchapter only on a determination by the head of the agency concerned that this status is the proximate result of employment by the agency;

(3) "dependent" means—

(A) a wife;

(B) an unmarried child (including an unmarried dependent stepchild or adopted child) under 21 years of age;

(C) a dependent mother or father;

(D) a dependent designated in official records; and

(E) an individual determined to be dependent by the head of the agency concerned or his designee;

(4) "active service" means active Federal service by an employee;

(5) "missing status" means the status of an employee who is in active service and is officially carried or determined to be absent in a status of—

(A) missing;

(B) missing in action;

(C) interned in a foreign country;

(D) captured, beleaguered, or besieged by a hostile force; or

(E) detained in a foreign country against his will;

but does not include the status of an employee for a period during which he is officially determined to be absent from his post of duty without authority; and

(6) "pay and allowances" means—

(A) basic pay;

(B) special pay;

(C) incentive pay;

(D) basic allowance for quarters;

(E) basic allowance for subsistence; and

(F) station per diem allowances for not more than 90 days.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 489.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)-(4)	50A U.S.C. 1001	Mar. 7, 1942, ch. 166, § 1, 56 Stat. 143. July 1, 1944, ch. 371, § 1, 58 Stat. 679. May 16, 1947, ch. 70, § 1, 61 Stat. 96. Aug. 29, 1957, Pub. L. 85-217, § 1(a), 71 Stat. 491. Aug. 14, 1964, Pub. L. 88-428, § 1(1), (2), 78 Stat. 437.
(5)	50A U.S.C. 1002(a) (3d through 66th words of 1st sentence, and 1st 28 words of 3d sentence, for definition purposes).	Mar. 7, 1942, ch. 166, § 2(a) (3d through 66th words and 96th through 120th words of 1st sentence, and 1st 28 words of 3d sentence, for definition purposes); added. July 1, 1944, ch. 371, § 2, 58 Stat. 679. Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85-217, § 1(b) (1st par.), 71 Stat. 491. Aug. 14, 1964, Pub. L. 88-428, § 1(3)(A), (C), 78 Stat. 437.
(5)	50A U.S.C. 1014 (as applicable to § 1002(a) (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 2(a) (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(6)	50A U.S.C. 1002(a) (96th through 120th words of 1st sentence, for definition purposes).	

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In paragraph (1), the word "agency" is substituted for "department". The words "including such term when used in the amendment made by section 16" are omitted as surplusage. The words "an Executive agency and a military department" are coextensive with and substituted for "any executive department, independent establishment, or agency (including corporations) in the executive branch of the Federal Government" in view of the definitions in sections 105 and 102, and on authority of 5 U.S.C. 933a which provides that general legislation governing employment, compensation, and the status of employees of the United States applies to employees of the General Accounting Office in the same manner as if they were in the executive branch.

In paragraph (3)(A), the word "lawful" is omitted as unnecessary in view of the accepted recognition of the fact that the word "wife" means a lawful wife. In paragraph (3)(E), the words "head of the agency concerned or his designee" are substituted for "head of the department concerned, or subordinate designated by him".

The definitions in paragraphs (5) and (6), which do not appear in, but are based on, the source law are created for legislative convenience.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Payments to missing members of the uniformed services, see section 551 et seq. of Title 37, Pay and Allowances of the Uniformed Services.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5564 of this title; title 10 sections 4342, 6954, 9342; title 26 sections 112, 6013.

§ 5562. Pay and allowances; continuance while in the missing status; limitations

(a) An employee in a missing status is entitled to receive or have credited to his account, for

the period he is in that status, the same pay and allowances to which he was entitled at the beginning of that period or may become entitled thereafter. Notwithstanding any other provision of law, an employee in a missing status on or after January 1, 1965, is entitled—

(1) to payment for annual leave which accrued to his account on or after January 1, 1965, but which was forfeited under section 6304 of this title because he was unable to use that leave by virtue of his missing status; or

(2) to have all of that leave restored to him and credited to a separate leave account in accordance with the provisions of section 6304(d)(2) of this title.

An employee shall elect in writing, within 90 days immediately following the date of enactment of this sentence or within 90 days immediately following the termination of his missing status, whichever is later, whether he desires payment for the leave under clause (1) of this subsection or credit of the leave under clause (2) of this subsection. Payment under clause (1) of this subsection shall be at the employee's rate of basic pay in effect at the time the leave was forfeited.

(b) Entitlement to pay and allowances under subsection (a) of this section ends on the date of—

(1) receipt by the head of the agency concerned of evidence that the employee is dead; or

(2) death prescribed or determined under section 5565 of this title.

That entitlement does not end—

(A) on the expiration of the term of service or employment of an employee while he is in a missing status; or

(B) earlier than the dates prescribed in paragraphs (1) and (2) of this subsection if the employee dies while he is in a missing status.

(c) An employee who is officially determined to be absent from his post of duty without authority is indebted to the United States for payments of amounts credited to his account under subsection (a) of this section for the period of that absence.

(d) When an employee in a missing status is continued in that status under section 5565 of this title, he continues to be entitled to have pay and allowances credited under subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 490; Pub. L. 93-181, § 7(a), Dec. 14, 1973, 87 Stat. 707.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1002(a) (1st sentence, less last 46 words).	Mar. 7, 1942, ch. 166, § 2(a) (1st 2 sentences and 3d sentence, less 1st 28 words); added. July 1, 1944, ch. 371, § 2, 58 Stat. 679. Apr. 4, 1953, ch. 17, § 1(a), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85-217, § 1(b), 71 Stat. 491. Aug. 14, 1964, Pub. L. 88-428, § 1(3)(A), (B), 78 Stat. 437.
	50A U.S.C. 1014 (as applicable to § 1002(a) (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 2(a) (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(b)	50A U.S.C. 1002(a) (last 46 words of 1st sentence, and 2d sentence).	
(c)	50A U.S.C. 1002(a) (3d sentence, less 1st 28 words).	
(d)	50A U.S.C. 1006 (2d sentence, as applicable to pay and allowances).	Mar. 7, 1942, ch. 166, § 6 (2d sentence, as applicable to pay and allowances); added. Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093. Aug. 14, 1964, Pub. L. 88-428, § 1(5)(B), 78 Stat. 437.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words "An employee in a missing status" are substituted for the first 66 words of 50A U.S.C. 1002(a) to conform to the definitions in section 5561(2) and (5). The words "pay and allowances" are substituted for the enumeration of pay and allowances in the first sentence of 50A U.S.C. 1002(a) to conform to the definition in sections 5561(6). The words "or is performing full-time training duty, other full-time duty, or inactive duty training" and "except that the pay and allowances for a person who is performing full-time training duty or other full-time duty without pay, or inactive duty training with or without pay, shall be that to which he would have been entitled if he had been performing full-time active duty with pay;" are omitted as inapplicable to civilian officers and employees.

In subsection (b), the words "under subsection (a) of this section" are inserted for clarity.

In subsection (c), the words "United States" are substituted for "Government" to conform to the style of this title. The words "under subsection (a) of this section" are inserted for clarity.

In subsection (d), the words "an employee in a missing status" are substituted for "a person missing under the conditions specified in section 2 of this Act" to conform to the definitions in section 5561(2) and (5).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The date of enactment of this sentence, referred to in subsec. (a) of this section, is the date of enactment of Pub. L. 93-181, which was approved Dec. 14, 1973.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-181 added provisions relating to employees in missing status on or after January 1, 1965.

FORMER EMPLOYEES OR THEIR BENEFICIARIES

Section 7(b) of Pub. L. 93-181 provided that: "The amendment made by subsection (a) of this section [amending subsec. (a) of this section] shall apply to former employees or their beneficiaries."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5563, 5564, 5567, 6304 of this title; title 26 section 6013.

§ 5563. Allotments; continuance, suspension, initiation, resumption, or increase while in a missing status; limitations

(a) An allotment (including one for the purchase of United States savings bonds) made by an employee before he was in a missing status may be continued for the period he is in that status, notwithstanding the end of the period for which the allotment was made.

(b) In the absence of an allotment or when an allotment is insufficient for a purpose authorized by the head of the agency concerned, he or his designee may authorize such a new or increased allotment as circumstances warrant, which is payable for the period the employee concerned is in a missing status.

(c) All allotments from the pay and allowances of an employee in a missing status may not total more than the amount of pay and allowances he is permitted to allot under regulations prescribed by the head of the agency concerned.

(d) A premium paid by the United States on insurance issued on the life of an employee, which is unearned because it covers a period after his death, reverts to the appropriation of the agency concerned.

(e) Subject to subsections (f) and (g) of this section, the head of the agency concerned or his designee may direct the initiation, continuance, discontinuance, increase, decrease, suspension, or resumption of an allotment from the pay and allowances of an employee in a missing status when that action is in the interests of the employee, his dependents, or the United States.

(f) When the head of the agency concerned officially reports that an employee in a missing status is alive, an allotment under subsections (a)-(d) of this section may be paid, subject to section 5562 of this title, until the date the head of the agency concerned receives evidence that the employee is dead or has returned to the controllable jurisdiction of the agency concerned.

(g) When an employee in a missing status is continued in that status under section 5565 of this title, an allotment under subsections (a)-(d) of this section may be continued, increased, or initiated.

(h) When the head of the agency concerned considers it essential for the well-being and protection of the dependents of an employee in active service (other than an employee in a missing status), he may, with or without the consent of the employee and subject to termination on specific request of the employee—

(1) direct the payment of a new allotment from the pay of the employee;

(2) increase or decrease the amount of an allotment made by the employee; and

(3) continue payment of an allotment of the employee which has expired.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 490.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1003 (1st sentence).	Mar. 7, 1942, ch. 166, § 3, 56 Stat. 144. Dec. 24, 1942, ch. 828, § 1 (1st par.), 56 Stat. 1092. July 1, 1944, ch. 371, § 3, 58 Stat. 680.
(b)	50 A U.S.C. 1003 (2d sentence, less proviso).	
(c)	50A U.S.C. 1003 (1st proviso of 2d sentence).	
(d)	50A U.S.C. 1003 (2d proviso of 2d sentence).	
(e)	50A U.S.C. 1004	Mar. 7, 1942, ch. 166, § 4, 56 Stat. 144. Dec. 24, 1942, ch. 828, § 1 (2d par.), 56 Stat. 1093. July 1, 1944, ch. 371, § 4, 58 Stat. 680.
(f)	50A U.S.C. 1006 (1st sentence).	Mar. 7, 1942, ch. 166, § 6 (1st sentence and 2d sentence, as applicable to allotments); added. Dec. 24, 1942, ch. 828, § 1 (4th par.), 56 Stat. 1093. Apr. 4, 1953, ch. 17, § 1(b), 67 Stat. 21. Aug. 14, 1964, Pub. L. 88-428, § 1(5), 78 Stat. 437.
	50A U.S.C. 1014 (as applicable to § 1006 (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 6 (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(g)	50A U.S.C. 1006 (2d sentence, as applicable to allotments).	
(h)	50A U.S.C. 1007	Mar. 7, 1942, ch. 166 § 7, 56 Stat. 145. Aug. 14, 1964, Pub. L. 88-428, § 1(6), 78 Stat. 437.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words "employee . . . in a missing status" are substituted for the reference to "person . . . entitled under section 2 of this Act to receive or be credited with pay and allowances" to conform to the definitions in section 5561(2) and (5). The words "except as otherwise provided herein" are omitted as unnecessary.

In subsection (b), the words "head of the agency concerned, he or his designee" are substituted for "head of the department concerned . . . head of the department concerned, or such subordinate as he may designate". The word "employee" is substituted for "person" to conform to the definition in section 5561(2).

In subsection (c), the words "in effect" are omitted as surplusage. The words "employee in a missing status" are substituted for "absent person" to conform to the definitions in section 5561(2) and (5).

In subsection (d), the words "United States" are substituted for "Government" to conform to the style of this title. The word "employee" is substituted for "person" to conform to the definition in section 5561(2).

In subsection (e), the words "head of the agency concerned or his designee" are substituted for "head of the department concerned, or such subordinates as he may designate". The words "employee in a missing status" are substituted for "person entitled to receive or be credited with pay and allowances under section 2 of this Act" to conform to the definitions in section 5561(2) and (5). The words "United States" are substituted for "Government" to conform to the style of this title.

In subsections (f) and (g), the words "employee in a missing status" are substituted for "person missing under the conditions specified in section 2 of this Act" to conform to the definitions in section 5561(2) and (5).

In subsection (h), the words "employee in a missing status" are substituted for "persons entitled under section 2 or 14 of this Act to receive pay and allowances" to conform to the definitions in section 5561(2) and (5). In paragraph (2), the words "heretofore or hereafter" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5567 of this title.

§ 5564. Travel and transportation; dependents; household and personal effects; motor vehicles; sale of bulky items; claims for proceeds; appropriation chargeable

(a) For the purpose of this section, "household and personal effects" and "household effects" may include, in addition to other authorized weight allowances, one privately owned motor vehicle which may be shipped at United States expense.

(b) Transportation (including packing, crating, draying, temporarily storing, and unpacking of household and personal effects) may be provided for the dependents and household and personal effects of an employee in active service (without regard to pay grade) who is officially reported as dead, injured, or absent for more than 29 days in a status listed in section 5561(5)(A)-(E) of this title to—

(1) the official residence of record for the employee;

(2) the residence of his dependent, next of kin, or other person entitled to the effects under regulations prescribed by the head of the agency concerned; or

(3) another location determined in advance or later approved by the head of the agency concerned or his designee on request of the employee (if injured) or his dependent, next of kin, or other person described in paragraph (2) of this subsection.

(c) When an employee described in subsection (b) of this section is in an injured status, transportation of dependents and household and personal effects may be provided under this section only when prolonged hospitalization or treatment is anticipated.

(d) Transportation on request of a dependent may be authorized under this section only when there is a reasonable relationship between the circumstances of the dependent and the destination requested.

(e) Instead of providing transportation for dependents under this section, when the travel has been completed the head of the agency concerned may authorize—

(1) reimbursement for the commercial cost of the transportation; or

(2) a monetary allowance, instead of transportation, as authorized by statute for the whole or that part of the travel for which transportation in kind was not furnished.

(f) The head of the agency concerned may store the household and personal effects of an employee described in subsection (b) of this section until proper disposition can be made. The cost of the storage and transportation (including packing, crating, draying, temporarily storing, and unpacking) of household and personal effects shall be charged against appropriations currently available.

(g) When the head of the agency concerned determines that an emergency exists and that a sale would be in the best interests of the United States, he may provide for the public or private sale of motor vehicles and other bulky items of the household and personal effects of an employee described in subsection (b) of this section. Before a sale, and if practicable, a reasonable effort shall be made to determine the desires of interested persons. The net proceeds from the sale shall be sent to the owner or other person entitled thereto under regulations prescribed by the head of the agency concerned. If there is no owner or other person entitled thereto, or if the owner or other person or their addresses are not ascertained within 1 year from the date of sale, the net proceeds may be covered into the Treasury of the United States as miscellaneous receipts.

(h) A claim for net proceeds covered into the Treasury under subsection (g) of this section may be filed with the General Accounting Office by the owner, his heir or next of kin, or his legal representative at any time before the end of 5 years from the date the proceeds are covered into the Treasury. When a claim is filed, the General Accounting Office shall allow or disallow it. A claim that is allowed shall be paid from the appropriation for refunding money erroneously received and covered. If a claim is not filed before the end of 5 years from the date the proceeds are covered into the Treasury, it is barred from being acted on by the General Accounting Office or the courts.

(i) This section does not amend or repeal—

(1) section 2575, 2733, 4712, 4713, 6522, 9712, or 9713 of title 10;

(2) section 507 of title 14; or

(3) chapter 171 of title 28.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 491; Pub. L. 90-83, § 1(33), Sept. 11, 1967, 81 Stat. 201.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1012 (14th sentence).	Mar. 7, 1942, ch. 166, § 12, 56 Stat. 146. Feb. 12, 1946, ch. 6, § 1(a), 60 Stat. 5. Aug. 29, 1951, ch. 356, § 1, 65 Stat. 207. Apr. 4, 1953, ch. 17, § 1(d), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85-217, § 1(d), 71 Stat. 492.
(b)	50A U.S.C. 1012 (1st sentence).	Aug. 14, 1964, Pub. L. 88-428, § 1(8), 78 Stat. 437.

HISTORICAL AND REVISION NOTES—Continued

1966 ACT—Continued

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
	50A U.S.C. 1014 (as applicable to § 1012 (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 12 (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(c)	50A U.S.C. 1012 (12th sentence).	
(d)	50A U.S.C. 1012 (13th sentence).	
(e)	50A U.S.C. 1012 (11th sentence).	
(f)	50A U.S.C. 1012 (9th and 10th sentences).	
(g)	50A U.S.C. 1012 (2d-4th sentences).	
(h)	50A U.S.C. 1012 (5th-7th sentences).	
(i)	50A U.S.C. 1012 (8th sentence).	

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words "Beginning June 25, 1950, and" are omitted as executed. The words "not to exceed" are omitted as unnecessary. The words "outside the United States, or in Alaska or Hawaii" are substituted for "outside the continental limits of the United States or in Alaska".

In subsection (b), the words "Transportation . . . may be provided" are substituted for "may be moved". The words "an employee . . . for more than 28 days in a status listed in section 5561(5)(A)-(E) of this title" are substituted for "person . . . for a period of thirty days or more in any status listed in section 2 of this Act" for clarity and to conform to the definitions in section 5561(2) and (5). In paragraph (1), the words "the employee" are substituted for "any such person". In paragraph (3), the words "head of the agency concerned or his designee" are substituted for "head of the department concerned or by such person as he may designate".

In subsection (c), the word "employee" is substituted for "person". The words "transportation . . . may be provided under this section only when" are substituted for "movement . . . provided for herein may be authorized only in cases where".

In subsection (d), the words "on request of a dependent may be provided under . . . only" are substituted for "No . . . shall be authorized pursuant to . . . upon application by dependents unless". The words "condition and" are omitted as surplusage.

In subsection (e)(1), the words "reimbursement for" are substituted for "the payment in money of amounts equal to".

In subsection (f), the word "employee" is substituted for "person". The words "such time as" are omitted as surplusage.

In subsection (g), the words "United States" are substituted for "Government" to conform to the style of this title. The word "employee" is substituted for "person". The words "under . . . prescribed" are substituted for "in accordance with . . . issued".

In subsection (h), the words "under subsection (g) of this section" are substituted for "under authority of this section".

In subsection (i), the words "the provisions of" are omitted as surplusage. Paragraph (3) is substituted for "the Federal Tort Claims Act (60 Stat. 842-847), as amended;" to reflect the correct citation of that Act.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5564(a)	50 App.: 1012	Oct. 19, 1965, Pub. L. 89-271, 79 Stat. 992.

Only that portion of the source law applicable to civilian officers and employees and their dependents is codified in this section. That portion of the source law applicable to members of the uniformed services and their dependents is codified in 37 U.S.C. 554(a) by section 5(2) of this bill.

§ 5565. Agency review

(a) When an employee has been in a missing status almost 12 months and no official report of his death or the circumstances of his continued absence has been received by the head of the agency concerned, he shall have the case fully reviewed. After that review and the end of 12 months in a missing status, or after any later review which shall be made when warranted by information received or other circumstances, the head of the agency concerned or his designee may—

(1) direct the continuance of his missing status, if there is a reasonable presumption that the employee is alive; or

(2) make a finding of death.

(b) When a finding of death is made under subsection (a) of this section, it shall include the date death is presumed to have occurred for the purpose of the ending of crediting pay and allowances and settlement of accounts. That date is—

(1) the day after the day on which the 12 months in a missing status ends; or

(2) a day determined by the head of the agency concerned or his designee when the missing status has been continued under subsection (a) of this section.

(c) For the purpose of determining status under this section, a dependent of an employee in active service is deemed an employee. A determination under this section made by the head of the agency concerned or his designee is conclusive on all other agencies of the United States. This section does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 492.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1005 (1st and 2d sentences).	Mar. 7, 1942, ch. 166, § 5, 56 Stat. 145. Dec. 24, 1942, ch. 828, § 1 (3d par.), 56 Stat. 1093. Aug. 14, 1964, Pub. L. 88-428, § 1(4), 78 Stat. 437.
	50A U.S.C. 1014 (as applicable to § 1005 (1st sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 5 (1st sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(b)	50A U.S.C. 1005 (less 1st and 2d sentences).	
(c)	50A U.S.C. 1009 (b) (as applicable to § 1005).	Mar. 7, 1942, ch. 166, § 9(b) (as applicable to § 5); added Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words "When an employee has been in a missing status almost 12 months" are substituted for "When the twelve months' period from the date of commencement of absence is about to expire in any case of a person entitled under section 2 of this Act to receive or be credited with pay and allowances" for clarity and to conform to the definitions in section 5561(2) and (5). For the same reasons, the words "the end of 12 months in a missing status" are substituted for "the twelve months' absence shall have expired". The words "or his designee" are supplied on authority of 50A U.S.C. 1009(a) which is codified in part in section 5566(a). In paragraph (1), the words "his" and "employee" are substituted for "person's" and "person".

In subsection (b), the words "under subsection (a) of this section" are inserted for clarity. The words "and payment of death gratuities" are omitted as inapplicable to civilian officers and employees. In paragraph (1), the words "the day on which the 12 months in a missing status ends" are substituted for "the day of expiration of an absence of twelve months" for consistency with subsection (a) of this section and in view of the definition in section 5561(5). In paragraph (2), the words "or his designee" are supplied on authority of 50A U.S.C. 1009(a) which is in part codified in section 5566(a). The words "under subsection (a) of this section" are substituted for "as hereinbefore authorized".

In subsection (c), the word "sole" is omitted as surplusage and in view of the provisions of section 5566(h). The word "deemed" is supplied to evidence the legal fiction provided by the words "is a 'person' under this Act" in 50A U.S.C. 1009(a). The words "or his designee" are supplied on authority of 50A U.S.C. 1009(a) which is in part codified in section 5566(a). The words "agencies of the United States" are substituted for "departments of the Government". The words "This section does not entitle" are substituted for "*Provided*, That nothing in this section shall be construed as conferring . . . any right".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in sections 5562, 5563, 5566, 5567 of this title.

§ 5566. Agency determinations

(a) The head of the agency concerned or his designee may make any determination necessary to administer this subchapter, and when so made it is conclusive as to—

(1) death or finding of death;

(2) the fact of dependency under this subchapter;

(3) any other status covered by this subchapter;

(4) an essential date, including one on which evidence or information is received by the head of the agency concerned; and

(5) whether information received concerning an employee is to be construed and acted on as an official report of death.

(b) When the head of the agency concerned receives information that he considers to conclusively establish the death of an employee, he shall take action thereon as an official report of death, notwithstanding an earlier action relating to death or status of the employee. After the end of 12 months in a missing status prescribed by section 5565 of this title, the head of the agency concerned or his designee shall make a finding of death when he considers that the information received, or a lapse of time without information, establishes a reasonable presumption that an employee in a missing status is dead.

(c) The head of the agency concerned or his designee may determine the entitlement of an employee to pay and allowances under this subchapter, including credits and charges in his account, and that determination is conclusive. An account may not be charged or debited with an amount that an employee captured, beleaguered, or besieged by a hostile force may receive or be entitled to receive from, or have placed to his credit by, the hostile force as pay, allowances, or other compensation.

(d) When circumstances warrant the reconsideration of a determination made under this subchapter, the head of the agency concerned or his designee may change or modify it.

(e) When the account of an employee has been charged or debited with an allotment paid under this subchapter, the amount so charged or debited shall be recredited to the account of the employee if the head of the agency concerned or his designee determines that the payment was induced by fraud or misrepresentation to which the employee was not a party.

(f) Except an allotment for an unearned insurance premium, an allotment paid from the pay and allowances of an employee for the period he is in a missing status may not be collected from the allotee as an overpayment when payment was caused by delay in receiving evidence of death. An allotment paid for a period after the end, under this subchapter or otherwise, of entitlement to pay and allowances may not be collected from the allottee or charged against the pay of a deceased employee when payment was caused by delay in receiving evidence of death.

(g) The head of the agency concerned or his designee may waive the recovery of an erroneous payment or overpayment of an allotment to a dependent if he considers recovery is against equity and good conscience.

(h) For the purpose of determining status under this section, a dependent of an employee in active service is deemed an employee. A determination under this section made by the head of the agency concerned or his designee is conclusive on all other agencies of the United States. This section does not entitle a dependent to pay, allowances, or other compensation to which he is not otherwise entitled.

(Pub. L. 89–554, Sept. 6, 1966, 80 Stat. 493.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1009(a) (1st and 2d sentences).	Mar. 7, 1942, ch. 166, § 9(a) (less 5th and last sentences); added. July 1, 1944, ch. 371, § 5, 58 Stat. 680. Apr. 4, 1953, ch. 17, § 1(c), 67 Stat. 21. Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.
	50A U.S.C. 1010	Mar. 7, 1942, ch. 166, § 10, 56 Stat. 145. July 1, 1944, ch. 371, § 6, 58 Stat. 681. Aug. 14, 1964, Pub. L. 88-428, § 1(7), 78 Stat. 437.

Historical and Revision Notes—Continued

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(b)	50A U.S.C. 1009(a) (3d and 4th sentences).	
(c)	50A U.S.C. 1009(a) (6th sentence, less last proviso).	
	50A U.S.C. 1014 (as applicable to § 1009(a) (1st proviso of 6th sentence)).	Mar. 7, 1942, ch. 166, § 14 (as applicable to § 9(a) (1st proviso of 6th sentence)), 56 Stat. 147. Apr. 4, 1953, ch. 17, § 1(e), 67 Stat. 21.
(d)	50A U.S.C. 1009(a) (7th sentence).	
(e)	50A U.S.C. 1009(a) (last proviso of 6th sentence).	
(f)	50A U.S.C. 1009 (a) (8th sentence).	
(g)	50A U.S.C. 1009(a) (9th sentence).	
(h)	50A U.S.C. 1009(b) (as applicable to § 1009).	Mar. 7, 1942, ch. 166, § 9(b) (as applicable to § 9); added. Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words "head of the agency concerned or his designee" are substituted for "head of the department concerned, or such subordinate as he may designate". The words "for the purposes of this Act" are omitted as surplusage. The words "final and" in 50A U.S.C. 1010 are omitted as surplusage and for consistency with 50A U.S.C. 1009(a) (1st sentence). The words "the determination of the fact of dependency for the purpose of payment of all six months' death gratuities as authorized by law, and the determination of the fact of dependency under the provisions of any and all other laws providing for the payment of pay, allowances, or other emoluments to enlisted personnel in the Army, Navy, Air Force, Marine Corps, and Coast Guard of the United States where such payments are contingent upon dependency" in 50A U.S.C. 1010 are omitted as inapplicable to civilian officers and employees and their dependents. In paragraph (2), the words "under this subchapter" are substituted for "under the provisions of this Act". In paragraph (3), the words "covered by this subchapter" are substituted for "dealt with by this Act". In paragraph (4), the words "by the head of the agency concerned" are substituted for "in such department or by the head thereof". In paragraph (5), the word "employee" is substituted for "person".

In subsection (b), the words "head of the agency concerned" are substituted for "department concerned". The word "employee" is substituted for "person". In the second sentence, the words "the head of the agency concerned or his designee" are inserted for clarity. The words "is dead" are substituted for "is no longer alive" for consistency with references in this section to "death".

In subsection (c), the words "or his designee" are substituted for "or by such subordinate as he may designate". The words "captured, beleaguered, or besieged by a hostile force" are substituted for "in the hands of a hostile force" on authority of 50A U.S.C. 1014.

In subsection (d), the words "under this subchapter" are substituted for "authorized to be made by this Act". The words "or his designee" are substituted for "or such subordinate as he may designate".

In subsection (e), the words "an employee . . . allotment paid under this subchapter" are substituted for "any person . . . allotments paid pursuant to this Act". The words "the employee if the head of the agency concerned or his designee" are substituted for "such person's . . . in any case in which . . . the head of the department concerned, or such subordinate as he may designate."

In subsection (f), the words "may not be collected" are substituted for "shall not be subject to collection" in two places. The word "employee" is substituted for "person".

In subsection (g), the words "or his designee" are substituted for "or such subordinate as he may designate".

In subsection (h), the word "sole" is omitted as surplusage and in view of the provisions of section 5565(c). The word "deemed" is supplied to evidence the legal fiction provided by the words "is a 'person' under this Act" in 50A U.S.C. 1009(a). The words "or his designee" are supplied on authority of 50A U.S.C. 1009(a) which is codified in part in subsection (a) of this section. The words "agencies of the United States" are substituted for "departments of the Government". The words "This section does not entitle" are substituted for *"Provided,* That nothing in this section shall be construed as conferring . . . any right".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in title 26 section 2.

§ 5567. Settlement of accounts

(a) The head of the agency concerned or his designee may settle the accounts of—

(1) an employee for whose account payment has been made under sections 5562, 5563, and 5565 of this title; and

(2) a survivor of a casualty to a ship, station, or military installation which results in the loss or destruction of disbursing records.

That settlement is conclusive on the accounting officials of the United States in settling the accounts of disbursing officials.

(b) Payment or settlement of an account made pursuant to a report, determination, or finding of death may not be recovered or reopened because of a later report or determination which fixes a date of death. However, an account shall be reopened and settled on the basis of a date of death so fixed which is later than that used as a basis for earlier settlement.

(c) In settling the accounts of a disbursing official, he is entitled to credit for an erroneous payment or overpayment made by him in carrying out this subchapter, except section 5568, if there is no fraud or criminality by him. Recovery may not be made from an individual who authorizes a payment under this subchapter, except section 5568, if there is no fraud or criminality by him.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 494.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	50A U.S.C. 1011	Mar. 7, 1942, ch. 166, § 11, 56 Stat. 146.
(b)	50A U.S.C. 1009 (a) (5th sentence).	Mar. 7, 1942, ch. 166, § 9(a) (5th and last sentences); added. July 1, 1944, ch. 371, § 5, 58 Stat. 680. Aug. 29, 1957, Pub. L. 85-217, § 1(c), 71 Stat. 492.
(c)	50A U.S.C. 1009 (a) (last sentence).	

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

In subsection (a), the words "or his designee" are substituted for "or such person as he may designate". The word "employee" is substituted for "persons". The words "United States" are substituted for "Government" to conform to the style of this title.

In subsection (c), the words "in carrying out this subchapter, except section 5568" are substituted for "in carrying out the provisions of this Act, except sections 13, 16, 17, and 18", since sections 16 and 17 are scheduled for repeal (see Table II) and section 18 was previously repealed. The words "under this subchapter, except section 5568" are substituted for "under such provisions" for the reasons stated in the preceding sentence.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5568. Income tax deferment

Notwithstanding other statutes, any Federal income tax return of, or the payment of any Federal income tax by, an employee who, at the time the return or payment would otherwise become due, is in a missing status does not become due until the earlier of the following dates:

(1) the fifteenth day of the third month in which he ceased (except because of death or incompetency) being in a missing status, unless before the end of that fifteenth day he is again in a missing status; or

(2) the fifteenth day of the third month after the month in which an executor, administrator, or conservator of the estate of the taxpayer is appointed.

That due date is prescribed subject to the power of the Secretary of the Treasury or his delegate to extend the time for filing the return or paying the tax, as in other cases, and to assess and collect the tax as provided by sections 6851, 6861, and 6871 of title 26 in cases in which the assessment or collection is jeopardized and in cases of bankruptcy or receivership.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 494.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	50A U.S.C. 1013	Mar. 7, 1942, ch. 166, § 13, 56 Stat. 146.
		Aug. 8, 1947, ch. 515, § 6, 61 Stat. 918.
		Aug. 14, 1964, Pub. L. 88-428, § 1(9), 78 Stat. 437.

Only that portion of the source law which is applicable to civilian officers and employees and their dependents is codified in this section.

The words "in the case of any taxable year beginning after December 31, 1940" are omitted as unnecessary.

The words "an employee" are substituted for "any civilian officer or employee of any department" to conform to the definition in section 5561(2). The words "in a missing status" are substituted for "absent from his duty station under the conditions specified in section 2 of this Act" to conform to the definition in section 5561(5) and in view of the provisions of section 5562 establishing the entitlement of an employee in a missing status to receive pay and allowances or to have them credited to his account. Reference to "title 26" is substituted for "Internal Revenue Code of 1954".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5567 of this title.

SUBCHAPTER VIII—SETTLEMENT OF ACCOUNTS

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3582, 5551 of this title.

§ 5581. Definitions

For the purpose of this subchapter—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title; and

(B) an individual employed by the government of the District of Columbia;

but does not include the employee of—

(i) a Federal land bank;

(ii) a Federal intermediate credit bank;

(iii) a regional bank for cooperatives; or

(iv) the Senate within the purview of section 36a of title 2;

(2) "money due" means the pay and allowances due on account of the services of a deceased employee for the Government of the United States or the government of the District of Columbia. It includes, but is not limited to—

(A) per diem instead of subsistence, mileage, and amounts due in reimbursement of travel expenses, including incidental and miscellaneous expenses in connection therewith for which reimbursement is due;

(B) allowances on change of official station;

(C) quarters and cost-of-living allowances and overtime or premium pay;

(D) amounts due for payment of cash awards for employees' suggestions;

(E) amounts due as refund of pay deductions for United States savings bonds;

(F) payment for accumulated and current accrued annual or vacation leave equal to the pay the decreased employee would have received had he lived and remained in the service until the end of the period of annual or vacation leave;

(G) amounts of checks drawn for pay and allowances which were not delivered by the Government to the employee during his lifetime;

(H) amounts of unnegotiated checks returned to the Government because of the death of the employee; and

(I) retroactive pay under section 5344(a)(2) of this title.

It does not include benefits, refunds, or interest payable under subchapter III of chapter 83 of this title applicable to the service of the deceased employee, or amounts the disposition of which is otherwise expressly prescribed by Federal statute.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 495.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)	5 U.S.C. 61k	Aug. 3, 1950, ch. 518, § 7, 64 Stat. 396.
		Apr. 30, 1954, ch. 177, § 2, 68 Stat. 65.
(2)	5 U.S.C. 61g	Aug. 3, 1950, ch. 518, § 2, 64 Stat. 396.
		July 2, 1953, ch. 178, § 5, 67 Stat. 138.
		Sept. 1, 1954, ch. 1208, § 501, 68 Stat. 1115.
		Sept. 2, 1958, Pub. L. 85-914, § 1, 72 Stat. 1761.
	5 U.S.C. 61i	Aug. 3, 1950, ch. 518, § 4, 64 Stat. 396.

Paragraph (1) is supplied for convenience and is based on the first 35 words of former section 61f, which is carried into section 5582, and former section 61k.

The exception for production credit corporations in section 7 of the Act of Aug. 3, 1950, is omitted as they were merged in the Federal intermediate credit banks by the Farm Credit Act of 1956, 70 Stat. 659.

The exception in paragraph (1)(iv) for employees of the Senate is added on authority of the Act of Jan. 6, 1951, ch. 1213, 64 Stat. 1124; 2 U.S.C. 36a.

In paragraph (2), the definition of "money due" is substituted for "unpaid compensation". Paragraph (2)(I) is added on authority of former section 1182(a)(2), which is carried into section 5344.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 4-836 of the District of Columbia Code.

§ 5582. Designation of beneficiary; order of precedence

(a) The employing agency shall notify each employee of his right to designate a beneficiary or beneficiaries to receive money due, and of the disposition of money due if a beneficiary is not designated. An employee may change or revoke a designation at any time under such regulations as the Comptroller General of the United States may prescribe.

(b) In order to facilitate the settlement of the accounts of deceased employees, money due an employee at the time of his death shall be paid to the person or persons surviving at the date of death, in the following order of precedence, and the payment bars recovery by another person of amounts so paid:

First, to the beneficiary or beneficiaries designated by the employee in a writing received in the employing agency before his death.

Second, if there is no designated beneficiary, to the widow or widower of the employee.

Third, if none of the above, to the child or children of the employee and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the employee or the survivor of them.

Fifth, if none of the above, to the duly appointed legal representative of the estate of the employee.

Sixth, if none of the above, to the person or persons entitled under the laws of the domicile of the employee at the time of his death.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 495.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 61j	Aug. 3, 1950, ch. 518, § 5, 64 Stat. 396.
(b)	5 U.S.C. 61f	Aug. 3, 1950, ch. 518, § 1, 64 Stat. 395.

Subsection (a) is restated for clarity. The word "officers" is omitted as included in "employee".

In subsection (b), so much of the first 35 words of former section 61f as states the application is carried into the definition of "employee" in section 5581(1). The word "officer" is omitted as included in "employee".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5583, 5595 of this title; title 22 section 2504; title 29 section 919; title 42 section 4955.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 4-836 of the District of Columbia Code.

§ 5583. Payment of money due; settlement of accounts

(a) Under such regulations as the Comptroller General of the United States may prescribe, the employing agency shall pay money due a deceased employee to the beneficiary designated by the employee under section 5582(b) of this title, or, if none, to the widow or widower of the employee.

(b) Except as the Comptroller General may by regulation otherwise authorize or direct, accounts not payable under subsection (a) of this section are payable on settlement of the General Accounting Office. However—

(1) accounts of employees of the government of the District of Columbia shall be paid by the District of Columbia;

(2) accounts of employees of the Canal Zone Government on the Isthmus of Panama shall be paid by the Canal Zone Government; and

(3) accounts of employees of Government corporations or mixed ownership Government corporations may be paid by the corporations.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 496.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 61h	Aug. 3, 1950, ch. 518, § 3, 64 Stat. 396.
		Apr. 30, 1954, ch. 177, § 1, 68 Stat. 64.

In subsection (a), the word "officer" is omitted as included in "employee".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Disposition of unpaid salary and other sums upon death of Representative or Resident Commissioner, see section 38a of Title 2, The Congress.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 4-836 of the District of Columbia Code.

§ 5584. Claims for overpayment of pay and allowances, other than travel and transportation expenses and allowances and relocation expenses

(a) A claim of the United States against a person arising out of an erroneous payment of pay, or allowances, other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title on or after July 1, 1960, to an employee of an agency, the collection of which would be against equity and good conscience and not in the best interests of the United States, may be waived in whole or in part by—

(1) the Comptroller General of the United States; or

(2) the head of an agency when—

(A) the claim is in an amount aggregating not more than $500;

(B) the claim is not the subject of an exception made by the Comptroller General in the account of any accountable official; and

(C) the waiver is made in accordance with standards which the Comptroller General shall prescribe.

(b) The Comptroller General or the head of the agency, as the case may be, may not exercise his authority under this section to waive any claim—

(1) if, in his opinion, there exists, in connection with the claim, an indication of fraud, misrepresentation, fault, or lack of good faith on the part of the employee or any other person having an interest in obtaining a waiver of the claim;

(2) except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office, after the expiration of three years immediately following the date on which the erroneous payment of pay was discovered or three years immediately following October 21, 1968, whichever is later;

(3) except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of three years immediately following the date on which the erroneous payment of allowances was discovered or three years immediately following October 2, 1972, whichever is later; or

(4) in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden, if application for waiver is received in his office after the expiration of 3 years immediately following the date on which the erroneous payment of pay or allowances was discovered or 3 years immediately following the date on which this clause (4) is enacted into law, whichever is later.

(c) A person who has repaid to the United States all or part of the amount of a claim, with respect to which a waiver is granted under this section, is entitled, to the extent of the waiver, to refund, by the employing agency at the time of the erroneous payment, of the amount repaid to the United States, if he applies to that employing agency for that refund within two years following the effective date of the waiver. The employing agency shall pay that refund in accordance with this section.

(d) In the audit and settlement of the accounts of any accountable official, full credit shall be given for any amounts with respect to which collection by the United States is waived under this section.

(e) An erroneous payment, the collection of which is waived under this section, is deemed a valid payment for all purposes.

(f) This section does not affect any authority under any other statute to litigate, settle, compromise, or waive any claim of the United States.

(g) For the purpose of this section, "agency" means—

(1) an Executive agency;

(2) the Government Printing Office;

(3) the Library of Congress;

(4) the Office of the Architect of the Capitol; and

(5) the Botanic Garden.

(Added Pub. L. 90-616, § 1(a), Oct. 21, 1968, 82 Stat. 1212, and amended Pub. L. 92-453, § 3(1), Oct. 2, 1972, 86 Stat. 760; Pub. L. 93-359, § 1, July 25, 1974, 88 Stat. 393.)

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-359, § 1(1), substituted "agency" for "executive agency" in the provisions preceding cl. (1) and in cl. (2) preceding subcl. (A).

Subsec. (b). Pub. L. 93-359, § 1(1) to (4), substituted "agency" for "executive agency" in the provisions preceding cl. (1), inserted "except in the case of employees of the Government Printing Office, the Library of Congress, the Office of the Architect of the Capitol, or the Botanic Garden," immediately following the designation "(2)" in cl. (2) and immediately following the designation "(3)" in cl. (3), struck out "or" at the end of cl. (2), substituted "October 2, 1972, whichever is later; or" for "the effective date of the amendment authorizing the waiver of allowances, whichever is later" in cl. (3) and struck out the period at the end of cl. (3), and added cl. (4).

Subsec. (g). Pub. L. 93-359, § 1(5), added subsec. (g).

1972—Pub. L. 92-453 added "and allowances, other than travel and transportation expenses and allowances and relocation expenses" at the end of the section catchline and in subsec. (a), substituted "payment of pay or allowances, other than travel and transportation expenses and allowances and relocation expenses payable under section 5724a of this title" for "payment of pay".

Subsec. (b)(2). Pub. L. 92-453 inserted "if application for waiver is received in his office" in the beginning of subsec. (b)(2), and substituted "October 21, 1968" for "the effective date of this section."

Subsec. (b)(3). Pub. L. 92-453 added subsec. (b)(3).

CROSS REFERENCES

Claims for overpayment of pay or allowances to the Vice President, Senators, officers and employees whose pay is disbursed by the Secretary of the Senate, and officers and employees whose pay is disbursed by the Clerk of the House of Representatives, see sections 130c and 130d of Title 2, The Congress.

Compromise and collection of Federal claims generally, see section 951 et seq. of Title 31, Money and Finance.

Waiver by Speaker of House and Secretary of Senate of claims for erroneous payment of pay or allowances, see sections 130c and 130d of Title 2, The Congress.

Section Referred to in Other Sections

This section is referred to in sections 6302, 8118 of this title; title 22 sections 2502, 2504.

SUBCHAPTER IX—SEVERANCE PAY AND BACK PAY

Amendments

1967—Pub. L. 90-83, § 1(34)(A), Sept. 11, 1967, 81 Stat. 201, inserted "Severance Pay and" preceding "Back Pay" in the subchapter heading.

[§§ 5591 to 5594. Repealed. Pub. L. 90-83, § 1(34)(B), Sept. 11, 1967, 81 Stat. 201.]

Historical and Revision Notes

This section deletes sections 5591, 5592, 5593, and 5594 of title 5, United States Code, to reflect the repeal of the source statutes of those sections by the act of March 30, 1966, Public Law 89-380, section 5, 80 Stat. 95.

Sections, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 496, 497, related to back pay for individuals or preference eligibles reinstated or restored, and are now covered by section 5596 of this title.

§ 5595. Severance pay

(a) For the purpose of this section—

(1) "agency" means—

(A) an Executive agency;

(B) the Library of Congress;

(C) the Government Printing Office; and

(D) the government of the District of Columbia; and

(2) "employee" means—

(A) an individual employed in or under an agency; and

(B) an individual employed by a county committee established under section 590h(b) of title 16;

but does not include—

(i) an employee whose rate of basic pay is fixed at a rate provided for one of the levels of the Executive Schedule or is in excess of the minimum rate for GS-18;

(ii) an employee serving under an appointment with a definite time limitation, except one so appointed for full-time employment without a break in service of more than 3 days following service under an appointment without time limitation;

(iii) an alien employee who occupies a position outside the several States, the District of Columbia, and the Canal Zone;

(iv) an employee who is subject to subchapter III of chapter 83 of this title or any other retirement statute or retirement system applicable to an employee as defined by section 2105 of this title or a member of a uniformed service and, who, at the time of separation from the service, has fulfilled the requirements for immediate annuity under such a statute or system;

(v) an employee who, at the time of separation from the service, is receiving compensation under subchapter I of chapter 81 of this title, other than one receiving this compensation concurrently with pay or on account of the death of another individual;

(vi) an employee who, at the time of separation from the service, is entitled to receive other severance pay from the Government;

(vii) an employee of the Tennessee Valley Authority; or

(viii) such other employee as may be excluded by regulations of the President or such other officer or agency as he may designate.

(b) Under regulations prescribed by the President or such officer or agency as he may designate, an employee who—

(1) has been employed currently for a continuous period of at least 12 months; and

(2) is involuntarily separated from the service, not by removal for cause on charges of misconduct, delinquency, or inefficiency;

is entitled to be paid severance pay in regular pay periods by the agency from which separated.

(c) Severance pay consists of—

(1) a basic severance allowance computed on the basis of 1 week's basic pay at the rate received immediately before separation for each year of civilian service up to and including 10 years for which severance pay has not been received under this or any other authority and 2 weeks' basic pay at that rate for each year of civilian service beyond 10 years for which severance pay has not been received under this or any other authority; and

(2) an age adjustment allowance computed on the basis of 10 percent of the total basic severance allowance for each year by which the age of the recipient exceeds 40 years at the time of separation.

Total severance pay under this section may not exceed 1 year's pay at the rate received immediately before separation. For the purpose of this subsection, "basic pay" includes premium pay under section 5545(c)(1) of this title.

(d) If an employee is reemployed by the Government of the United States or the government of the District of Columbia before the end of the period covered by payments of severance pay, the payments shall be discontinued beginning with the date of reemployment and the service represented by the unexpired portion of the period shall be recredited to the employee for use in any later computations of severance pay. For the purpose of subsection (b)(1) of this section, reemployment that causes severance pay to be discontinued is deemed employment continuous with that serving as the basis for severance pay.

(e) If the employee dies before the end of the period covered by payments of severance pay, the payments of severance pay with respect to the employee shall be continued as if the employee were living and shall be paid on a pay period basis to the survivor of the employee in accordance with section 5582(b) of this title.

(f) Severance pay under this section is not a basis for payment, and may not be included in the basis for computation, of any other type of United States or District of Columbia Government benefits. A period covered by severance pay is not a period of United States or District of Columbia Government service or employment.

(g) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this section to an individual named by subsection (a)(2)(B) of this section.

(Added Pub. L. 90-83, § 1(34)(C), Sept. 11, 1967, 81 Stat. 201.)

Historical and Revision Notes

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5595	5 App.: 1117	Oct. 29, 1965, Pub. L. 89-301, § 9, 79 Stat. 1118. Nov. 2, 1966, Pub. L. 89-737, § 2, 80 Stat. 1164.

In subsection (a), subsections (a) and (b) of 5 App. U.S.C. 1117 are restated as definitions.

In subsection (a)(1)(A), the term "Executive agency" is substituted for "the executive branch of the Government of the United States, including each corporation wholly owned or controlled by the United States" and "the General Accounting Office" to conform to the definition in 5 U.S.C. 105.

The definition in subsection (a)(2) continues the application of the section to only civilian officers and employees, and does not encompass members of the uniformed services as they are not "employed" in or under an agency. Throughout the section, the word "officer", in the phrase "officer or employee", is omitted as included within "employee". The last 40 words of 5 App. U.S.C. 1117(a) are codified in subsection (g).

In subsection (a)(2)(i), the words "Executive Schedule" are substituted for "Federal Executive Salary Schedule" to reflect the provisions of 5 U.S.C. 5311. The words "of the General Schedule of the Classification Act of 1949, as amended" are omitted as unnecessary.

In subsection (a)(2)(ii), the words "without a break in service of more than 3 days" are coextensive with and substituted for "without a break in service or after a separation of three days or less".

In subsection (a)(2)(iv), the words "subchapter III of chapter 83 of this title" are substituted for "the Civil Service Retirement Act, as amended" to reflect the codification of the act in title 5 U.S.C. The words "employees as defined by section 2105 of this title" are coextensive with and substituted for "Federal officers and employees".

In subsection (a)(2)(v), the words "subchapter I of chapter 81 of this title" are substituted for "the Federal Employees' Compensation Act, as amended" to reflect the codification of the act in title 5, U.S.C.

In subsection (b) the word "agency" is substituted for "department, independent establishment, corporation, or other governmental unit" to conform to the definition in subsection (a)(1). Subsection (b)(1) is substituted for 5 App. U.S.C. 1117(e).

In subsection (e), the words "section 5582(b) of this title" are substituted for "the first section of the Act of August 3, 1950 (5 U.S.C. 61f)" to reflect the codification of the section in title 5, United States Code.

Section Referred to in Other Sections

This section is referred to in section 3381 of this title; title 38 sections 4107, 4118.

§ 5596. Back pay due to unjustified personnel action

(a) For the purpose of this section, "agency" means—

(1) an Executive agency;

(2) the Administrative Office of the United States Courts;

(3) the Library of Congress;

(4) the Government Printing Office; and

(5) the government of the District of Columbia.

(b) An employee of an agency who, on the basis of an administrative determination or a timely appeal, is found by appropriate authority under applicable law or regulation to have undergone an unjustified or unwarranted personnel action that has resulted in the withdrawal or reduction of all or a part of the pay, allowances, or differentials of the employee—

(1) is entitled, on correction of the personnel action, to receive for the period for which the personnel action was in effect an amount equal to all or any part of the pay, allowances, or differentials, as applicable, that the employee normally would have earned during that period if the personnel action had not occurred, less any amounts earned by him through other employment during that period; and

(2) for all purposes, is deemed to have performed service for the agency during that period except that—

(A) annual leave restored under this paragraph which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Civil Service Commission, and

(B) annual leave credited under subparagraph (A) of this paragraph but unused and still available to the employee under regulations prescribed by the Commission shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

(c) The Civil Service Commission shall prescribe regulations to carry out this section. However, the regulations are not applicable to the Tennessee Valley Authority and its employees.

(Added Pub. L. 90-83, § 1(34)(C), Sept. 11, 1967, 81 Stat. 203, and amended Pub. L. 94-172, § 1(a), Dec. 23, 1975, 89 Stat. 1025.)

Historical and Revision Notes

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5596(a)	5 App.: 652a	Mar. 30, 1966, Pub. L. 89-380, §§ 2-4, 80 Stat. 94, 95.
5596(b)	5 App.: 652b	
5596(c)	5 App.: 652c	

In subsection (a)(1), the term "an Executive agency" is substituted for "executive department of the Government of the United States", "agency or independent establishment in the executive branch of such Government", "corporation owned or controlled by such Government", and "the General Accounting Office" to conform to the definition in 5 U.S.C. 105.

In subsection (b), the word "employee" is substituted for "civilian officer or employee" and "such officer or employee" to conform to the definition in 5 U.S.C. 2105. The words "on or after the date of enactment of this Act" and "taken prior to, on, or after the date of enactment of his Act" are omitted as executed and unnecessary, since title 5 is restated prospectively and as any existing rights are preserved by section 7 of this bill.

In subsection (c), the word "employees" is substituted for "officers and employees" to conform to the definition in 5 U.S.C. 2105.

Amendments

1975—Subsec. (b)(2). Pub. L. 94-172 struck out in introductory clause provision relating to prohibition on leave credit cumulated in excess of maximum allowed under law or regulations, and added subpars. (A) and (B).

EFFECTIVE DATE OF 1975 AMENDMENT

Section 1(b) of Pub. L. 94-172 provided that: "The amendment made by subsection (a) [amending subsec. (b)(2) of this section] shall apply to any employee found, on or after March 30, 1966, to have undergone an unjustified or unwarranted personnel action the correction of which entitled or entitles such employee to the benefits provided under section 5596 of title 5, United States Code."

LUMP-SUM PAYMENTS FOR FORMER EMPLOYEES NOT ON THE ROLLS ON DECEMBER 23, 1975

Section 2 of Pub. L. 94-172 provided that: "With respect to former employee (except a former employee referred to in section 3 of this Act) [set out as a note under this section] who is not on the rolls on the date of the enactment of this Act [Dec. 23, 1975], annual leave, which was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to the employee's credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of the enactment of this Act [Dec. 23, 1975] with the agency by which the employee was employed when the lump-sum payment provisions of section 5551 of title 5, United States Code, last became applicable to such employee. Payment shall be by that agency at the salary rate in effect on the date the lump-sum payment provisions became applicable."

LUMP-SUM PAYMENTS FOR POSTAL EMPLOYEES NOT ON THE ROLLS ON DECEMBER 23, 1975

Section 3 of Pub. L. 94-172 provided that:

"(a) With respect to a former employee of the Post Office Department or a former employee of the United States Postal Service who had prior civilian service with the Post Office Department or other Federal agency, who is not on the rolls on the date of the enactment of this Act [Dec. 23, 1975], annual leave which was accrued before July 1, 1971, but was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to his credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and, liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date of enactment of this Act [Dec. 23, 1975] with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date the lump-sum payment provisions of section 5551 of title 5, United States Code, or comparable provisions of regulations of the Postal Service, as appropriate, last became applicable to the former employee.

"(b) With respect to a present employee of the Postal Service who had prior Federal civilian service with the Post Office Department or other Federal agency, annual leave which was accrued before July 1, 1971, but was not credited under section 5596 of title 5, United States Code, because it was in an amount that would have caused the amount of leave to the employee's credit to exceed the maximum amount of the leave authorized for the employee by law or regulation, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed with the Postal Service within three years immediately following the date of the enactment of this Act [Dec. 23, 1975]. Payment shall be by the Postal Service at the salary rate in effect on the date of the enactment of this Act [Dec. 23, 1975]."

CHAPTER 57—TRAVEL, TRANSPORTATION, AND SUBSISTENCE

SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

Sec.

5701. Definitions.
5702. Per diem; employees traveling on official business.[1]
5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay.
5704. Mileage and related allowances.
5705. Advancements and deductions.
5706. Allowable travel expenses.
5707. Regulations and reports.
5708. Effect on other statutes.
5709. Air evacuation patients: furnished subsistence.

SUBCHAPTER II—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES, STUDENT TRAINEES, AND TRANSFERRED EMPLOYEES

5721. Definitions.
5722. Travel and transportation expenses of new appointees; posts of duty outside the continental United States.
5723. Travel and transportation expenses of new appointees and student trainees; manpower shortage positions.
5724. Travel and transportation expenses of employees transferred; advancement of funds; reimbursement on commuted basis.
5724a. Relocation expenses of employees transferred or reemployed.
5725. Transportation expenses; employees assigned to danger areas.
5726. Storage expenses; household goods and personal effects.
5727. Transportation of motor vehicles.
5728. Travel and transportation expenses; vacation leave.
5729. Transportation expenses; prior return of family.
5730. Funds available.
5731. Expenses limited to lowest first-class rate.
5732. General average contribution; payment or reimbursement.
5733. Expeditious travel.

SUBCHAPTER III—TRANSPORTATION OF REMAINS, DEPENDENTS, AND EFFECTS

5741. General prohibition.
5742. Transportation of remains, dependents, and effects; death occurring away from official station or abroad.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

5751. Travel expenses of witnesses.

AMENDMENTS

1975—Pub. L. 94-22, § 7, May 19, 1975, 89 Stat. 86, added "and reports" after "Regulations" in item 5707.

1970—Pub. L. 91-563, § 4(b), Dec. 19, 1970, 84 Stat. 1477, added heading of Subchapter IV and item 5751.

Pub. L. 91-481, § 1(2), Oct. 21, 1970, 84 Stat. 1081, added item 5709.

1967—Pub. L. 90-206, title II, § 222(c)(2), Dec. 16, 1967, 81 Stat. 641, added item 5733.

Pub. L. 90-83 § 1(37)(B), Sept. 11, 1967, 81 Stat. 205, added item 5724a.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in section 193 of this title; title 14 section 193; title 18 section 3168; title 26 section 7471; title 42 section 5816.

---

[1] Item does not conform to section catchline.

SUBCHAPTER I—TRAVEL AND SUBSISTENCE EXPENSES; MILEAGE ALLOWANCES

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3375, 3381, 4109, 5354, 5723, 5751 of this title; title 2 section 476; title 7 section 2229; title 15 section 634; title 16 sections 793, 916*l*, 961, 1032; title 21 section 874; title 22 sections 2024, 2672; title 26 section 7471; title 28 section 753; title 30 section 729; title 42 sections 1975b, 2477; title 48 section 1407h; title 50 App. section 2019b.

§ 5701. Definitions

For the purpose of this subchapter—

(1) "agency" means—

(A) an Executive agency;

(B) a military department;

(C) an office, agency, or other establishment in the legislative branch;

(D) an office, agency, or other establishment in the judicial branch; and

(E) the government of the District of Columbia;

but does not include—

(i) a Government controlled corporation;

(ii) a Member of Congress; or

(iii) an office or committee of either House of Congress or of the two Houses;

(2) "employee" means an individual employed in or under an agency including an individual employed intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis and an individual serving without pay or at $1 a year;

(3) "subsistence" means lodging, meals, and other necessary expenses for the personal sustenance and comfort of the traveler;

(4) "per diem allowance" means a daily flat rate payment instead of actual expenses for subsistence and fees or tips to porters and stewards;

(5) "Government" means the Government of the United States and the government of the District of Columbia; and

(6) "continental United States" means the several States and the District of Columbia, but does not include Alaska or Hawaii.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 498; Pub. L. 94-22, § 2(a), May 19, 1975, 89 Stat. 84.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)-(5)	5 U.S.C. 835	June 9, 1949, ch. 185, § 2, 63 Stat. 166.
(6)	[Uncodified]	Aug. 14, 1961, Pub. L. 87-139, § 8(c), 75 Stat. 340.

In paragraph (1), the word "agency" is substituted for "departments and establishments". The terms "Executive agency" and "military department" are substituted for "any executive department, independent commission, board, bureau, office, agency, or other establishment in the executive branch of the Government, including wholly owned Government corporations" in view of the definitions in sections 105 and 102. The exception of "a Government controlled corporation" is added in subparagraph (i) to preserve the application of this subchapter to "wholly owned Government corporations".

Paragraph (2) is added for convenience and to eliminate the necessity of referring to "civilian officers and employees of the agencies" elsewhere in the text of the subchapter.

In paragraph (4), the words "for subsistence and fees or tips to porters and stewards" are added on authority of the words "in lieu of their actual expenses of subsistence and all fees or tips to porters and stewards" and "in lieu of subsistence" in former sections 836 and 73b-2, which are carried into sections 5702 and 5703, respectively.

Paragraph (5) is added for convenience and is based in part on former section 835(1)(A) and, insofar as concerns section 5703, on section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

Paragraph (6), insofar as concerns section 5703, is based in part on section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

The definition of "Member of Congress" in former section 835(4) is omitted as unnecessary in view of the definition of "Member of Congress" in section 2106.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Par. (2). Pub. L. 94-22 redefined "employee" to include individuals employed intermittently as experts or consultants and paid on a daily when-actually-employed basis, and individuals serving without pay at $1 a year.

SHORT TITLE OF 1975 AMENDMENT

Section 1 of Pub. L. 94-22 provided: "That this Act [amending this section, sections 5702, 5703, 5704, 5705 and 5707 of this title, and section 68b of Title 2, The Congress, and enacting provisions set out as a note under section 5707 of this title] may be cited as the "Travel Expense Amendments Act of 1975'."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 2 sections 68b, 476; title 16 section 971h; title 22 section 1474; title 33 section 1104.

§ 5702. Per diem; employee traveling on official business

(a) Under regulations prescribed under section 5707 of this title, an employee while traveling on official business away from his designated post of duty, or in the case of an individual described under section 5703 of this title, his home or regular place of business, is entitled to (1) a per diem allowance for travel inside the continental United States at a rate not to exceed $35, and (2) a per diem allowance for travel outside the continental United States, that may not exceed the rate established by the President, or his designee, for each locality where travel is to be performed. For travel consuming less than a full day, such rate may be allocated proportionately.

(b) Under regulations prescribed under section 5707 of this title, an employee who, while traveling on official business away from his designated post of duty or, in the case of an individual described under section 5703 of this title, his home or regular place of business, becomes incapacitated by illness or injury not due to his own misconduct, is entitled to the per diem allowance and appropriate transportation expenses to his designated post of duty, or home or regular place of business, as the case may be.

(c) Under regulations prescribed under section 5707 of this title, the Administrator of General Services, or his designee, may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of official travel when the maximum per diem allowance would be less than these expenses, except that such reimbursement shall not exceed $50 for each day in a travel status within the continental United States when the per diem otherwise allowable is determined to be inadequate (A) due to the unusual circumstances of the travel assignment, or (B) for travel to high rate geographical areas designated as such in regulations prescribed under section 5707 of this title.

(d) Under regulations prescribed under section 5707 of this title, for travel outside the continental United States, the Administrator of General Services or his designee, may prescribe conditions under which an employee may be reimbursed for the actual and necessary expenses of official travel when the per diem allowance would be less than these expenses, except that such reimbursement shall not exceed $21 for each day in a travel status outside the continental United States plus the locality per diem rate prescribed for such travel.

(e) This section does not apply to a justice or judge, except to the extent provided by section 456 of title 28.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 498; Pub. L. 91-114, § 1, Nov. 10, 1969, 83 Stat. 190; Pub. L. 94-22, § 3, May 19, 1975, 89 Stat. 84.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 836	June 9, 1949, ch. 185, § 3, 63 Stat. 166. Apr. 26, 1950, ch. 108, 64 Stat. 89. July 28, 1955, ch. 424, § 1, 69 Stat. 393. Aug. 14, 1961, Pub. L. 87-139, §§ 1, 8(a), 75 Stat. 339, 340.

In subsection (a), the term "employee" is substituted for "civilian officers and employees of the departments and establishments" in view of the definition of "employee" in sections 5701 and 2105. The words "in lieu of their actual expenses for subsistence and all fees or tips to porters and stewards" are omitted as unnecessary in view of the definition of "per diem allowance" in section 5701(4).

In subsection (b), the words "Under regulations prescribed under section 5707 of this title" are substituted for "in accordance with regulations promulgated and approved under sections 835-842 of this title".

In subsection (c), the words "Under regulations prescribed under section 5707 of this title" are substituted for "in accordance with regulations promulgated by the Director, Bureau of the Budget, pursuant to section 840 of this title."

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-22 substituted provision relating to determination of the per diem allowance under regulations prescribed under section 5707 for provision allowing for such determination by the agency concerned, added provisions relating to an individual described under section 5703 and to the proportionate allocation of rates for travel consuming less than a full day, deleted provision relating to the Director of the Bureau of the Budget or another officer of the Government of the United States as persons who may be designees, and raised the maximum allowance from $25 to $35.

Subsec. (b). Pub. L. 94-22 added provision relating to an individual described under section 5703, added "appropriate" preceding "transportation", and "or home or regular place of business, as the case may be." following "expenses to his designated post of duty".

Subsec. (c). Pub. L. 94-22 substituted the Administrator of General Services, or his designee, for the head of the agency concerned, as the party who may prescribe conditions for reimbursement for actual and necessary expenses, raised from $40 to $50 the maximum reimbursement for travel within the continental United States when the rate otherwise allowable is inadequate due to unusual circumstances or due to travel to areas designated as high rate areas, and struck out a provision, now covered by subsec. (d), for a maximum allowance per day for travel outside the continental United States.

Subsec. (d). Pub. L. 94-22 transferred from subsec. (c) to (d) provisions for reimbursement for actual and necessary expenses for travel outside the continental United States and raised from $18 to $21 the maximum reimbursment for such expenses. Provisions of former subsec. (d) were redesignated as subsec. (e).

Subsec. (e). Pub. L. 94-22 redesignated former subsec. (d) as (e).

1969—Subsec. (a). Pub. L. 91-114 increased the per diem allowance for travel inside the continental United States from not to exceed the rate of $16 to not to exceed the rate of $25.

Subsec. (c). Pub. L. 91-114 in cl. (1) increased the amount authorized to be named in the travel authorization for each day in a travel status inside the continental United States from not to exceed $30 to not to exceed $40, and in cl. (2) increased the amount authorized to be named in the travel authorization for each day in a travel status outside the continental United States from not to exceed the maximum per diem allowance plus $10 to not to exceed the maximum per diem allowance plus $18.

DELEGATION OF FUNCTIONS

Authority of the President to establish maximum rates of per diem allowances to the extent that such authority pertains to travel status of employees (as defined in section 5701 of this title) while enroute to, from, or between localities situated outside the 48 contiguous States of the United States and the District of Columbia under the last sentence of subsec. (a) of this section delegated to the Administrator of General Services, see section 1(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

CROSS REFERENCES

Civil defense trainees, payment of travel expenses and per diem allowances, see section 2281 of Title 50, Appendix, War and National Defense.

Members of uniformed services, subsistence expenses during travel on duty, see section 404 of Title 37, Pay and Allowances of the Uniformed Services.

Student-employees, travel expenses upon detail to or affiliation with another Federal institution, see section 5354 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5703, 5724a of this title; title 2 section 476; title 16 section 971h; title 22 sections 1474, 2396; title 26 sections 274, 4941; title 31 section 1032; title 42 section 2477.

§ 5703. Per diem, travel, and transportation expenses; experts and consultants; individuals serving without pay

An employee serving intermittently in the Government service as an expert or consultant and paid on a daily when-actually-employed basis, or serving without pay or at $1 a year, may be allowed travel or transportation expenses, under this subchapter, while away from his home or regular place of business and at the place of employment or service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 499; Pub. L. 91-114, § 2, Nov. 10, 1969, 83 Stat. 190; Pub. L. 94-22, § 4, May 19, 1975, 89 Stat. 85.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 73b-2	Aug. 2, 1946, ch. 744, § 5, 60 Stat. 808. July 28, 1955, ch. 424, § 2, 69 Stat. 394. Aug. 14, 1961, Pub. L. 87-139, §§ 2, 8(b), 75 Stat. 339, 340.

Subsection (a) is added on authority of section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

In subsection (b), the words "in lieu of subsistence" are omitted as unnecessary in view of the definition of "per diem allowance" in section 5701(4). The words "this subchapter" are substituted for "the Standardized Government Travel Regulations, Subsistence Expense Act of 1926, as amended (5 U.S.C. 821-833) and the Act of February 14, 1931, as amended by this Act" as the Subsistence Expense Act of 1926 and the Act of February 14, 1931, were repealed by section 9(a) of the Travel Expense Act of 1949, 63 Stat. 167, part of which appeared in former section 842 and is carried into section 5708, and as the authority for the Standardized Government Travel Regulations in former section 840 is carried into section 5707.

In subsection (c), the words "this subchapter" are substituted for "said regulations and said Act of February 14, 1931, as so amended" as the Act of February 14, 1931, was repealed by section 9(a) of the Travel Expense Act of 1949, 63 Stat. 167, part of which appeared in former section 842 and is carried into section 5708, and as the authority for the Standardized Government Travel Regulations in former section 840 is carried into section 5707. The words "in lieu of subsistence" are omitted as unnecessary in view of the definition of "per diem allowance" in section 5701(4).

In subsection (d), the words "Under regulations prescribed under section 5707 of this title" are substituted for "in accordance with regulations promulgated by the Director, Bureau of the Budget, pursuant to section 840 of this title".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1975—Pub. L. 94-22 struck out separate provisions for per diem allowances of employees serving as experts, consultants, or serving without pay or at $1 a year.

1969—Subsec. (c)(1). Pub. L. 91-114 increased the per diem allowance for travel inside the continental United States from not to exceed the rate of $16 to not to exceed the rate of $25.

Subsec. (d). Pub. L. 91-114 in cl. (1) increased the amount authorized to be named in the travel authorization for each day in a travel status inside the continental United States from not to exceed $30 to not to exceed $40, and in cl. (2) increased the amount authorized to be named in the travel authorization for each day in a travel status outside the continental United States from not to exceed the maximum per diem allowance plus $10 to not to exceed the maximum per diem allowance plus $18.

Cross References

Advisory committees and panels of experts for research and demonstration projects in education of handicapped children, application of section to, see section 618 of Title 20, Education.

Board of Regents of National Library of Medicine, members of as entitled to travel expenses under this section, see section 277 of Title 42, The Public Health and Welfare.

Coast Guard, expenses of Advisory Committee to Academy, see section 193 of Title 14, Coast Guard.

Education professions development, see section 1091f of Title 20, Education.

International Health Research Act of 1960, application of section to, see sections 2102, 2103 of Title 22, Foreign Relations and Intercourse; section 242*l* of Title 42, The Public Health and Welfare.

National Advisory Council on Education Professions Development, see section 1091a of Title 20, Education.

National Science Foundation—

Transportation and subsistence for persons serving without compensation, see section 1870 of Title 42, The Public Health and Welfare.

Travel expenses of members of Board, divisional committees, or special commission, see section 1873 of Title 42.

Temporary employment of experts and consultants, see section 3109 of this title.

Section Referred to in Other Sections

This section is referred to in sections 573, 5306, 5707 of this title; title 2 sections 352, 475; title 7 section 2233; title 12 sections 635a, 1701j-2, 1701y, 1749bbb-1, 1752a; title 15 sections 637, 1204, 1393, 1475, 1942, 2077; title 16 sections 1a-2, 1105, 1156, 1401, 1403, 1460, 1604; title 18 section 4351; title 19 section 2171; title 20 sections 955, 957, 959, 963, 1091f, 1209, 1221e, 1233c, 1505, 2012; title 21 sections 360c, 360e, 360j, 376, 1115; title 22 sections 287*o*, 287q, 290f, 1471, 1474, 2102, 2103, 2199, 2351, 2456, 2581, 2672b, 2872, 2873, 2903, 2905, 3106; title 25 section 305; title 28 section 41b; title 29 sections 656, 774, 792, 952, 1142, 1302, title 30 sections 663, 726, 812; title 33 sections 857-10, 1320; title 40 sections 333, 822, 872; title 41 section 46; title 42 sections 210, 242*l*, 254j, 286a, 286f, 287f, 289c-3a, 289c-7, 295d-2, 300d-8, 300j-5, 300k-3, 907, 1108, 1314, 1320a-1, 1320c-12, 1395dd, 1857d, 1857e, 1870, 1873, 1975b, 2673, 2689q, 3015, 3211, 3609, 3742, 3747, 3765, 4025, 4553, 4914, 5032, 5042, 5404, 5651, 5661, 6007, 6614; title 44 section 3318; title 46 section 1482; title 47 section 396; title 49 sections 1657, 1673.

Section Referred to in D.C. Code

This section is referred to in sections 31-1602, 31-1622, 49-401 of the District of Columbia Code.

§ 5704. Mileage and related allowances

(a) Under regulations prescribed under section 5707 of this title, an employee who is engaged on official business for the Government is entitled to not in excess of—

(1) 11 cents a mile for the use of a privately owned motorcycle;

(2) 20 cents a mile for the use of a privately owned automobile; or

(3) 24 cents a mile for the use of a privately owned airplane;

instead of actual expenses of transportation when that mode of transportation is authorized or approved as more advantageous to the Government. A determination of such advantage is not required when payment on a mileage basis is limited to the cost of travel by common carrier including per diem. Notwithstanding the preceding provisions of this subsection, in any case in which an employee who is engaged on official business for the Government chooses to use a privately owned vehicle in lieu of a Government vehicle, payment on a mileage basis is limited to the cost of travel by a Government vehicle.

(b) In addition to the mileage allowance authorized under subsection (a) of this section, the employee may be reimbursed for—

(1) parking fees;
(2) ferry fees;
(3) bridge, road, and tunnel costs; and
(4) airplane landing and tie-down fees.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 499; Pub. L. 94-22, § 5, May 19, 1975, 89 Stat. 85.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 837	June 9, 1949, ch. 185, § 4, 63 Stat. 166. July 28, 1955, ch. 424, § 4, 69 Stat. 394. Aug. 14, 1961, Pub. L. 87-139, §§ 3, 4, 75 Stat. 339, 340.

The word "employee" is substituted for "Civilian officers and employees of departments and establishments" in view of the definition of "employee" in sections 5701 and 2105.

In subsection (a), the words "Under regulations prescribed under section 5707 of this title" are substituted for "under regulations prescribed by the Director of the Bureau of the Budget".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-22 struck out "or other individual performing services for the Government" after "employee", substituted "for the Government" for "inside or outside his designated post of duty or place of service", increased from 8 to 11 cents the allowance for use of a motorcycle, from 12 to 20 cents the allowance for use of an automobile, and from 12 to 24 cents the allowance for use of an airplane, and added the provision relating to the limitation of an allowance to the cost of travel by Government vehicle when an employee chooses a privately owned vehicle in lieu of a Government vehicle.

Subsec. (b). Pub. L. 94-22 added "authorized" after "allowance", struck out "or other individual performing service for the Government" after "employee", and provided for the reimbursement of airplane landing and tie-down fee.

CROSS REFERENCES

Civil defense trainees, payment of travel expenses and per diem allowances, see section 2281 of Title 50, Appendix, War and National Defense.

Transportation rental contracts without regard to this section, see section 26 of Title 13, Census.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5724 of this title; title 2 section 476; title 13 sections 24, 26; title 16 section 971h; title 22 section 1474; title 30 section 812; title 33 section 1320; title 42 section 2477.

§ 5705. Advancements and deductions

An agency may advance, through the proper disbursing official, to an employee entitled to per diem or mileage allowances under this subchapter, a sum considered advisable with regard to the character and probable duration of the travel to be performed. A sum advanced and not used for allowable travel expenses is recoverable from the employee or his estate by—

(1) setoff against accrued pay, retirement credit, or other amount due the employee;
(2) deduction from an amount due from the United States; and
(3) such other method as is provided by law.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 500; Pub. L. 94-22, § 2(b), May 19, 1975, 89 Stat. 84.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 838	June 9, 1949, ch. 185, § 5, 63 Stat. 166.

The words "disbursing official" are substituted for "disbursing officer" because of the definition of "officer" in section 2104 which excludes a member of a uniformed service. Application to section 5703 is based on former section 73b-2, which is carried into section 5703.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Pub. L. 94-22 struck out "or individual" following "employee" wherever appearing.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5724 of this title; title 16 section 971h; title 22 section 1474.

§ 5706. Allowable travel expenses

Except as otherwise permitted by this subchapter or by statutes relating to members of the uniformed services, only actual and necessary travel expenses may be allowed to an individual holding employment or appointment under the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 500.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 839	June 9, 1949, ch. 185, § 6, 63 Stat. 167.

The words "members of the uniformed services" are substituted for "military personnel."

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 16 section 971h; title 22 section 1474.

§ 5707. Regulations and reports

(a) The Administrator of General Services shall prescribe regulations necessary for the administration of this subchapter, except that the Director of the Administrative Office of the United States Courts shall prescribe such regulations with respect to official travel by employees of the judicial branch of the Government.

(b)(1) The Administrator of General Services, in consultation with the Comptroller General of the United States, the Secretary of Transportation, the Secretary of Defense, and representatives of organizations of employees of the Government, shall conduct periodic investigations of the cost of travel and the operation of privately owned vehicles to employees while engaged on official business, and shall report the results of such investigations to Congress at least once a year. In conducting the investigations, the Administrator shall review and analyze among other factors—

(A) depreciation of original vehicle cost;
(B) gasoline and oil (excluding taxes);

(C) maintenance, accessories, parts, and tires;

(D) insurance; and

(E) State and Federal taxes.

(2) The Administrator shall issue regulations under this section which shall prescribe mileage allowances which shall not exceed the amounts set forth in section 5704(a) of this title and which reflect the current costs, as determined by the Administrator, of operating privately owned motorcycles, automobiles, and airplanes. At least once each year after the issuance of the regulations described in the preceding sentence, the Administrator shall determine, based upon the results of his investigation, specific figures, each rounded to the nearest one-half cent, of the average, actual cost a mile during the period for the use of a privately owned motorcycle, automobile, and airplane. The Administrator shall report such figures to Congress not later than five working days after he makes his determination. Each such report shall be printed in the Federal Register. The mileage allowances contained in regulations prescribed under this section shall be adjusted within thirty days following the submission of that report to the figures so determined and reported by the Administrator.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 500; Pub. L. 94-22, § 6(a), May 19, 1975, 89 Stat. 85.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 840	June 9, 1949, ch. 185, § 7, 63 Stat. 167.

The first sentence is based in part on former sections 73b-2, 836, and 837, which are carried into this subchapter. Application of the second sentence to section 5703, and the third sentence, are based on former section 73b-2, which is carried into section 5703.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1975—Pub. L. 94-22 added "and reports" to section catchline, designated existing provisions as subsec. (a), and as so designated, substituted "Administrator of General Services" for "Director of the Bureau of the Budget", struck out provision for fixing, payment, advancement and recovery of travel allowances and expenses in accordance with the regulations and provision for the non-applicability of this section to per diem allowances under section 5703(c), and added provision for regulations for travel by employees of the judicial branch of the Government by the Director of the Administrative Office of the United States Courts, and added subsec. (b).

Regulations; Time for Issuance

Section 6(b) of Pub. L. 94-22 provided that: "The regulations required under the first sentence of section 5707(b)(2) of title 5, United States Code [subsec. (b)(2) of this section], as amended by subsection (a) of this section [see 1975 Amendment note above], shall be issued no later than thirty days after the effective date of this Act [May 19, 1975]."

Section Referred to in Other Sections

This section is referred to in sections 5702, 5703, 5704, 5709 of this title; title 16 sections 971h, 1156; title 22 section 1474; title 40 section 872.

§ 5708. Effect on other statutes

This subchapter does not modify or repeal—

(1) any statute providing for the traveling expenses of the President;

(2) any statute providing for mileage allowances for Members of Congress;

(3) any statute fixing or permitting rates higher than the maximum rates established under this subchapter; or

(4) any appropriation statute item for examination of estimates in the field.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 500.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1), (2)	5 U.S.C. 841	June 9, 1949, ch. 185, § 8, 63 Stat. 167.
(3), (4)	5 U.S.C. 842	June 9, 1949, ch. 185, § 9, 63 Stat. 167.

In paragraph (2), the words "Members of Congress" are substituted for "the President of the Senate or Members of Congress" in view of the definition of "Member of Congress" in section 2106.

The first sentence of section 9 of the Act of June 9, 1949, which repealed the Subsistence Act of 1926 and the Auto Mileage Act of February 14, 1931, is omitted as executed.

The first proviso of former section 842, which related to appropriation Acts for the years 1949 and 1950, is omitted as obsolete. The remainder of former section 842, other than the parenthetical expressions, is omitted as executed and existing rights are preserved by technical section 8.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in title 16 section 971h; title 22 section 1474.

§ 5709. Air evacuation patients: furnished subsistence

Notwithstanding any other provision of law, and under regulations prescribed under section 5707 of this title, an employee and his dependents may be furnished subsistence without charge while being evacuated as a patient by military aircraft of the United States.

(Added Pub. L. 91-481, § 1(1), Oct. 21, 1970, 84 Stat. 1081.)

SUBCHAPTER II—TRAVEL AND TRANSPORTATION EXPENSES; NEW APPOINTEES, STUDENT TRAINEES, AND TRANSFERRED EMPLOYEES

Subchapter Referred to in Other Sections

This section is referred to in title 8 section 1353.

§ 5721. Definitions

For the purpose of this subchapter—

(1) "agency" means—

(A) an Executive agency;

(B) a military department;

(C) a court of the United States;

(D) the Administrative Office of the United States Courts;

(E) the Library of Congress;

(F) the Botanic Garden;

(G) the Government Printing Office; and

(H) the government of the District of Columbia;

but does not include a Government controlled corporation;

(2) "employee" means an individual employed in or under an agency;

(3) "continental United States" means the several States and the District of Columbia, but does not include Alaska or Hawaii;

(4) "Government" means the government of the United States and the government of the District of Columbia; and

(5) "appropriation" includes funds made available by statute under section 849 of title 31.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 500.)

Historical and Revision Notes

The section is based on sections 18 and 19 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811, 812. Sections 18 and 19 of the Act of Aug. 2, 1946, are omitted from this title and transferred to other titles of the United States Code since such sections apply also to sections 9, 11, and 16(a) of the Act of Aug. 2, 1946, which sections appear in titles 31 and 41 of the United States Code.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Definition of agency—

- Applicability to provisions covering delegation of authority by agency heads, see section 302 of this title.
- Applicability to provisions covering witness fees and allowances, see section 503 of this title.

Section Referred to in Other Sections

This section is referred to in sections 302, 503, 3109, 5913 of this title; title 26 section 912.

§ 5722. Travel and transportation expenses of new appointees; posts of duty outside the continental United States

(a) Under such regulations as the President may prescribe and subject to subsections (b) and (c) of this section, an agency may pay from its appropriations—

(1) travel expenses of a new appointee and transportation expenses of his immediate family and his household goods and personal effects from the place of actual residence at the time of appointment to the place of employment outside the continental United States; and

(2) these expenses on the return of an employee from his post of duty outside the continental United States to the place of his actual residence at the time of assignment to duty outside the United States.

(b) An agency may pay expenses under subsection (a)(1) of this section only after the individual selected for appointment agrees in writing to remain in the Government service for a minimum period of—

(1) one school year as determined under chapter 25 of title 20, if selected for appointment to a teaching position, except as a substitute, in the Department of Defense under that chapter; or

(2) 12 months after his appointment, if selected for appointment to any other position;

unless separated for reasons beyond his control which are acceptable to the agency concerned. If the individual violates the agreement, the money spent by the United States for the expenses is recoverable from the individual as a debt due the United States.

(c) An agency may pay expenses under subsection (a)(2) of this section only after the individual has served for a minimum period of—

(1) one school year as determined under chapter 25 of title 20, if employed in a teaching position, except as a substitute, in the Department of Defense under that chapter; or

(2) not less than one nor more than 3 years prescribed in advance by the head of the agency, if employed in any other position;

unless separated for reasons beyond his control which are acceptable to the agency concerned. These expenses are payable whether the separation is for Government purposes or for personal convenience.

(d) This section does not apply to appropriations for the Foreign Service of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 501.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 73b-3(a) (less 3d-6th proviso).	Aug. 2, 1946, ch. 744, § 7, 60 Stat. 808. Sept. 23, 1950, ch. 1010, § 2, 64 Stat. 985. Aug. 30, 1961, Pub. L. 87-172, § 2, 75 Stat. 409.

In subsections (b)(1) and (c)(1), the words "under chapter 25 of title 20" are substituted for "under the Defense Department Overseas Teachers Pay and Personnel Practices Act" to reflect the scheduled transfer of that Act from chapter 34 of title 5 to chapter 25 of title 20.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Delegation of Functions

Authority of the President under subsec. (a) of this section to prescribe regulations with respect to the payment of travel expenses and transportation expenses of household goods and personal effects delegated to the Administrator of General Services, see section 1(4) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Cross References

Coast Guard, reimbursement of members of Advisory Committee to Academy, see section 193 of Title 14, Coast Guard.

Section Referred to in Other Sections

This section is referred to in sections 5724, 5726, 5727 of this title.

§ 5723. Travel and transportation expenses of new appointees and student trainees; manpower shortage positions

(a) Under such regulations as the President may prescribe and subject to subsections (b) and (c) of this section, an agency may pay from its appropriations—

(1) travel expenses of a new appointee, or a student trainee when assigned on completion of college work, to a position in the United States for which the Civil Service Commis-

sion determines there is a manpower shortage; and

(2) transportation expenses of his immediate family and his household goods and personal effects to the extent authorized by section 5724 of this title;

from his place of residence at the time of selection or assignment to his duty station. If the travel and transportation expenses of a student trainee were paid when he was appointed, they may not be paid when he is assigned after completion of college work. Travel expenses payable under this subsection may include the per diem and mileage allowances authorized for employees by subchapter I of this chapter. Advances of funds may be made for the expenses authorized by this subsection to the extent authorized by section 5724(f) of this title.

(b) An agency may pay travel and transportation expenses under subsection (a) of this section only after the individual selected or assigned agrees in writing to remain in the Government service for 12 months after his appointment or assignment, unless separated for reasons beyond his control which are acceptable to the agency concerned. If the individual violates the agreement, the money spent by the United States for the expenses is recoverable from the individual as a debt due the United States.

(c) An agency may pay travel and transportation expenses under subsection (a) of this section whether or not the individual selected has been appointed at the time of the travel.

(d) The Commission may not delegate its authority to determine positions for which there is a manpower shortage for the purpose of this section.

(e) This section does not impair or otherwise affect the authority of an agency under existing statute to pay travel and transportation expenses of individuals named by subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 502.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 73b-3 (less (a)).	Aug. 25, 1958, Pub. L. 85-749, 72 Stat. 843.
		July 5, 1960, Pub. L. 86-587, § 1, 74 Stat. 327.
		Oct. 16, 1963, Pub. L. 88-146, 77 Stat. 252.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

DELEGATION OF FUNCTIONS

Authority of the President under subsec. (a) of this section to prescribe regulations with respect to the payment of travel expenses and transportation expenses delegated to the Administrator of General Services, see section 1(5) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5726, 5727 of this title.

§ 5724. Travel and transportation expenses of employees transferred; advancement of funds; reimbursement on commuted basis

(a) Under such regulations as the President may prescribe and when the head of the agency concerned or his designee authorizes or approves, the agency shall pay from Government funds—

(1) the travel expenses of an employee transferred in the interest of the Government from one official station or agency to another for permanent duty, and the transportation expenses of his immediate family, or a commutation thereof under section 5704 of this title; and

(2) the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking his household goods and personal effects not in excess of 11,000 pounds net weight.

(b) Under such regulations as the President may prescribe, an employee who transports a house trailer or mobile dwelling inside the continental United States, inside Alaska, or between the continental United States and Alaska, for use as a residence, and who otherwise would be entitled to transportation of household goods and personal effects under subsection (a) of this section, is entitled, instead of that transportation, to—

(1) a reasonable allowance not in excess of 20 cents a mile for transportation of the house trailer or mobile dwelling, if the trailer or dwelling is transported by the employee; or

(2) commercial transportation of the house trailer or mobile dwelling, at Government expense, or reimbursement to the employee therefor, including the payment of necessary tolls, charges, and permit fees, if the trailer or dwelling is not transported by the employee.

However, payment under this subsection may not exceed the maximum payment to which the employee otherwise would be entitled under subsection (a) of this section for transportation and temporary storage of his household goods and personal effects in connection with this transfer.

(c) Under such regulations as the President may prescribe, an employee who transfers between points inside the continental United States, instead of being paid for the actual expenses of transporting, packing, crating, temporarily storing, draying, and unpacking of household goods and personal effects, shall be reimbursed on a commuted basis at the rates per 100 pounds that are fixed by zones in the regulations. The reimbursement may not exceed the amount which would be allowable for the authorized weight allowance. However, under regulations prescribed by the President, payment of actual expenses may be made when the head of the agency determines that payment of actual expenses is more economical to the Government.

(d) When an employee transfers to a post of duty outside the continental United States, his expenses of travel and transportation to and from the post shall be allowed to the same extent and with the same limitations prescribed for a new appointee under section 5722 of this title.

(e) When an employee transfers from one agency to another, the agency to which he transfers pays the expenses authorized by this section. However, under regulations prescribed by the President, in a transfer from one agency to another because of a reduction in force or transfer of function, expenses authorized by this section and sections 5726(b) and 5727 of this title (other than expenses authorized in connection with a transfer to a foreign country) and by section 5724a(a), (b) of this title may be paid in whole or in part by the agency from which the employee transfers or by the agency to which he transfers, as may be agreed on by the heads of the agencies concerned.

(f) An advance of funds may be made to an employee under the regulations of the President with the same safeguards required under section 5705 of this title.

(g) The allowances authorized by this section do not apply to an employee transferred under chapter 14 of title 22.

(h) When a transfer is made primarily for the convenience or benefit of an employee, including an employee in the Foreign Service of the United States, or at his request, his expenses of travel and transportation and the expenses of transporting, packing, crating, temporarily storing, draying, and unpacking of household goods and personal effects may not be allowed or paid from Government funds.

(i) An agency may pay travel and transportation expenses (including storage of household goods and personal effects) and other relocation allowances under this section and sections 5724a and 5726(c) of this title when an employee is transferred within the continental United States only after the employee agrees in writing to remain in the Government service for 12 months after his transfer, unless separated for reasons beyond his control that are acceptable to the agency concerned. If the employee violates the agreement, the money spent by the United States for the expenses and allowances is recoverable from the employee as a debt due the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 502; Pub. L. 90-83, § 1(36), Sept. 11, 1967, 81 Stat. 204; Pub. L. 90-623, § 1(14), Oct. 22, 1968, 82 Stat. 1313.)

Historical and Revision Notes

1966 Act

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 73b-1 (a), (b).	Aug. 2, 1946, ch. 744, § 1(a), (b), 60 Stat. 806. Sept. 23, 1950, ch. 1010, §§ 1 (a), (b), 3(b), 64 Stat. 985, 986. Feb. 12, 1958, Pub. L. 85-326, 72 Stat. 14. Sept. 6, 1960, Pub. L. 86-707, § 301(c) (1), 74 Stat. 796. Oct. 9, 1962, Pub. L. 87-776, 76 Stat. 777.

In subsections (a)(1) and (f), the words "section 5704 of this title" and "section 5705 of this title", respectively, are substituted for "the Act of February 14, 1931 (5 U.S.C. 73a)" and "the Subsistence Expense Act of 1926 (5 U.S.C. 828)", respectively, on authority of sections 4, 5, and 9(a) of the Travel Expense Act of 1949, as amended, which are carried into sections 5704, 5705, and 5708.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
5724(a)(2)	5 App.: 73b-1(a)	July 21, 1966, Pub. L. 89-516, § 1(a), 80 Stat. 323.
5724(c)	5 App.: 73b-1(b)	July 21, 1966, Pub. L. 89-516, § 1(b), 80 Stat. 323.
5724(e)	5 App.: 73b-4d	July 21, 1966, Pub. L. 89-516, § 2 "Sec. 26", 80 Stat. 324.
5724(i)	5 App.: 73b-4f	July 21, 1966, Pub. L. 89-516, § 2 "Sec. 28", 80 Stat. 325.

Subsection (a)(1), (3) of section 1 of the act of July 21, 1966, was effected in the codification of 5 U.S.C. 5724(a)(1), (f); accordingly, no further amendments to 5 U.S.C. 5724 are necessary.

In subsection (e), the word "However" is substituted for "and notwithstanding the provisions of the fourth proviso of section 1(a) of this Act" to reflect the codification of that proviso in 5 U.S.C. 5724(e). The words "agency" and "agencies" are substituted for "department" and "departments", respectively, to conform to the definition in 5 U.S.C. 5721(1). The words "this section and sections 5726(b) and 5727 of this title" and "section 5724a (a), (b) of this title" are substituted for "section 1, subsections (a) and (b) and subsections (e) and (f)" and "sections 23 and 24 of this Act", respectively, to reflect the codification of the cited sections in 5 U.S.C. The word "employee" is substituted for "officer or employee" to conform to the definitions in 5 U.S.C. 5721(2) and 2105.

In subsection (i), the words "An agency may pay * * * expenses * * * and allowances under this section and sections 5724a and 5726(c) of this title * * * only after" are substituted for "Notwithstanding the provisions of subsections (a) and (b) of section 1, and of sections 23, 24, 25, and 27 of this Act, the * * * expenses * * * and * * * allowances shall not be allowed thereunder * * * unless and until" for clarity and to conform to the style of 5 U.S.C., and to reflect the codification of the cited sections in 5 U.S.C. The word "employee" is substituted for "civilian officer or employee" and "such officer or employee" to conform to the definitions in 5 U.S.C. 5721(2) and 2105. The words "continental United States" are substituted for "continental United States, excluding Alaska" to conform to the definition in 5 U.S.C. 5721(3). The word "agency" is substituted for "department or agency" to conform to the definition in 5 U.S.C. 5721(1). In the last sentence, the words "money spent by the United States for the expenses and allowances" are substituted for "moneys expended by the United States under said sections of this act on account of such officer or employee."

Amendments

1968—Subsec. (e). Pub. L. 90-623 substituted "section 5724a(a), (b)" for "section 5724(a), (b)".

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-623 effective as of Sept. 11, 1967, for all purposes, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

Delegation of Functions

Authority of the President under this section to prescribe the regulations provided for in this section (relating to travel and transportation expenses and other matters) delegated to the Administrator of General Services, see section 1(6) of Ex. Ord. No. 11609, July

22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Rates of Reimbursement

Administrator of General Services empowered to prescribe regulations relating to establishment of rates used in reimbursing civilian officers or employees of Government on a commuted basis in lieu of payment of actual expenses of transportation, etc., of their household goods and personal effects upon transfer from one official station to another, see Ex. Ord. No. 11012, Mar. 28, 1962, 27 F.R. 2983, set out as a note under section 301 of Title 3, The President.

Section Referred to in Other Sections

This section is referred to in sections 3375, 4109, 5723, 5724a, 5726 of this title.

§ 5724a. Relocation expenses of employees transferred or reemployed

(a) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, appropriations or other funds available to an agency for administrative expenses are available for the reimbursement of all or part of the following expenses of an employee for whom the Government pays expenses of travel and transportation under section 5724(a) of this title:

(1) Expenses of per diem allowance instead of the subsistence expenses of the immediate family of the employee while en route between his old and new official stations, not in excess of the maximum per diem rates prescribed by or under section 5702 of this title.

(2) Expenses of per diem allowance instead of subsistence of the employee and his spouse, not in excess of the maximum per diem rates prescribed by or under section 5702 of this title. Expenses of transportation to seek permanent residence quarters at a new official station when both the old and new stations are located within the continental United States. However, expenses under this paragraph may be allowed only for one round trip in connection with each change of station of the employee.

(3) Subsistence expenses of the employee and his immediate family for a period of 30 days while occupying temporary quarters when the new official station is located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. The period of residence in temporary quarters may be extended for an additional 30 days when the employee moves to or from Hawaii, Alaska, the territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. The regulations shall prescribe average daily rates for subsistence expenses per individual, not in excess of the maximum per diem rates prescribed by or under section 5702 of this title, for the location in which the temporary quarters are located. Reimbursement for subsistence expenses actually incurred may not exceed these daily rates for the first 10 days of the period, two-thirds of the rates for the second 10 days, and one-half of the rates for the balance of the period, including the additional 30 days.

(4) Expenses of the sale of the residence (or the settlement of an unexpired lease) of the employee at the old station and purchase of a home at the new official station required to be paid by him when the old and new official stations are located within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the Canal Zone. However, reimbursement for brokerage fees on the sale of the residence and other expenses under this paragraph may not exceed those customarily charged in the locality where the residence is located, and reimbursement may not be made for losses on the sale of the residence. This paragraph applies regardless of whether title to the residence or the unexpired lease is in the name of the employee alone, in the joint names of the employee and a member of his immediate family, or in the name of a member of his immediate family alone.

(b) Under such regulations as the President may prescribe and to the extent considered necessary and appropriate, as provided therein, and notwithstanding other reimbursement authorized under this subchapter, an employee who is reimbursed under subsection (a) of this section or section 5724(a) of this title is entitled to—

(1) an amount not to exceed 2 weeks' basic pay, if he has an immediate family; or

(2) an amount not to exceed 1 week's basic pay, if he does not have an immediate family.

However, the amounts may not exceed amounts determined from the maximum rate for GS-13.

(c) Under such regulations as the President may prescribe, a former employee separated by reason of reduction in force or transfer of function who within 1 year after the separation is reemployed by a nontemporary appointment at a different geographical location from that where the separation occurred may be allowed and paid the expenses authorized by sections 5724, 5725, 5726(b), and 5727 of this title, and may receive the benefits authorized by subsections (a) and (b) of this section, in the same manner as though he had been transferred in the interest of the Government without a break in service to the location of reemployment from the location where separated.

(Added Pub. L. 90-83, § 1(37)(A), Sept. 11, 1967, 81 Stat. 204.)

Historical and Revision Notes

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5724(a)	5 App.: 73b-4a	July 21, 1966, Pub. L. 89-516, § 2 "Sec. 23", 80 Stat. 323.
5724a(b)	5 App.: 73b-4b	July 21, 1966, Pub. L. 89-516, § 2 "Sec. 24", 80 Stat. 324.
5724a(c)	5 App.: 73b-4c	July 21, 1966, Pub. L. 89-516, § 2 "Sec. 27", 80 Stat. 325.

In subsection (a), the word "agency" is substituted for "department" to conform to the definition in 5 U.S.C. 5721(1). The word "employee" is substituted for "officers or employees" and "officer or employee" to conform to the definitions in 5 U.S.C. 5721(2) and 2105. The words "section 5724(a) of this title" and "section 5702 of this title" are substituted for "subsection (a) of section 1 of this Act" and "section 3 of the Travel Expense Act of 1949 (63 Stat. 166, as amended; 5 U.S.C. 836)" to reflect the codification of the cited acts in 5 U.S.C. In subsection (a)(2), the words "within the continental United States" are coextensive with and substituted for "within the continental United States, excluding Alaska" on authority of the definition of "continental United States" in 5 U.S.C. 5721(3).

In subsection (b), the words "this subchapter" and "subsection (a) of this section or section 5724(a) of this title" are substituted for "this Act" and "section 1(a) or section 23 of this Act", respectively, to reflect the codification of the act in 5 U.S.C. The word "officer" is omitted as included in "employee". The words "in the General Schedule of the Classification Act of 1949, as amended" are omitted as unnecessary.

In subsection (c), the word "officer" is omitted as included in "employee". The words "sections 5724, 5725, 5726(b), and 5727 of this title" and "subsections (a) and (b) of this section" are substituted for "section 1 of this Act" and "sections 23 and 24 of this Act", respectively, to reflect the codification of the act in title 5, United States Code.

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe the regulations provided for in this section, relating to (i) the availability of appropriations or other funds of agencies for the reimbursement of described expenses of employees for whom the Government pays expenses of travel and transportation under section 5724(a) of this title, (ii) the entitlement of employees to amounts related to their basic pay, and (iii) the allowance, payment, and receipt of expenses and benefits to former employees who are reemployed by nontemporary appointments delegated to the Administrator of General Services, see section 1(7) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3375, 5584, 5724 of this title.

§ 5725. Transportation expenses; employees assigned to danger areas

(a) When an employee of the United States is on duty, or is transferred or assigned to duty, at a place designated by the head of the agency concerned as inside a zone—

(1) from which his immediate family should be evacuated; or

(2) to which they are not permitted to accompany him;

because of military or other reasons which create imminent danger to life or property, or adverse living conditions which seriously affect the health, safety, or accommodations of the immediate family, Government funds may be used to transport his immediate family and household goods and personal effects, under regulations prescribed by the head of the agency, to a location designated by the employee. When circumstances prevent the employee from designating a location, or it is administratively impracticable to determine his intent, the immediate family may designate the location. When the designated location is inside a zone to which movement of families is prohibited under this subsection, the employee or his immediate family may designate an alternate location.

(b) When the employee is assigned to a duty station from which his immediate family is not excluded by the restrictions in subsection (a) of this section, Government funds may be used to transport his immediate family and household goods and personal effects from the designated or alternate location to the duty station.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 503.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 73b-1(d).	Sept. 23, 1960, ch. 1010, § 1(c), 64 Stat. 985.

The word "employee" is substituted for "civilian officers and employees" in view of the definition of "employee" in sections 5721 and 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5724a of this title.

§ 5726. Storage expenses; household goods and personal effects

(a) For the purpose of subsection (b) of this section, "household goods and personal effects" means such personal property of an employee and his dependents as the President may be regulation authorize to be transported or stored, including, in emergencies, motor vehicles authorized to be shipped at Government expense.

(b) Under such regulations as the President may prescribe, an employee, including a new appointee and a student trainee to the extent authorized by sections 5722 and 5723 of this title, assigned to a permanent duty station outside the continental United States may be allowed storage expenses and related transportation and other expenses for his household goods and personal effects when—

(1) the duty station is one to which he cannot take or at which he is unable to use his household goods and personal effects; or

(2) the head of the agency concerned authorizes storage of the household goods and personal effects in the public interest or for reasons of economy.

The weight of the household goods and personal effects stored under this subsection, together with the weight of property transported under section 5724(a), may not exceed 11,000 pounds net weight, excluding a motor vehicle described by subsection (a) of this section.

(c) Under such regulations as the President may prescribe, when an employee, including a new appointee and a student trainee to the extent authorized by section 5723 of this title, is assigned to a permanent duty station at an isolated location in the continental United States to which he cannot take or at which he is unable to use his household goods and personal effects because of the absence of residence quarters at the location, nontemporary storage expenses or storage at Government expense in Government-owned facilities (including related transportation and other expenses), whichever is more economical, may be allowed the employee under regulations prescribed by the head of the agency concerned. The weight of property stored under this subsection, together with the weight of property transported under sections 5723(a) and 5724(a) of this title, may not exceed the total maximum weight the employee would be entitled to have moved. The period of nontemporary storage under this subsection may not exceed 3 years.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 504; Pub. L. 90-83, § 1(38), Sept. 11, 1967, 81 Stat. 205.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 73b-1(e)	Sept. 6, 1960, Pub. L. 86-707, § 301(c)(2), (d) (as applicable to the Administrative Expenses Act of 1946, as amended), 74 Stat. 796.

The word "employee" is substituted for "civilian officer or employee" in view of the definition of "employee" in sections 5721 and 2105.

In subsection (b), the words "including a new appointee and a student trainee to the extent authorized by sections 5722 and 5723 of this title" are substituted for "including any new appointee in accordance with section 73b-3 of this title" for clarity and reflect the codification of former section 73b-3 in this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5726(c)	5 App.: 73b-4c	July 21, 1966, Pub. L. 89-516, § 2 "Sec. 25", 80 Stat. 324.

The amendment of subsection (a) of 5 U.S.C. 5726 reflects the addition of a new subsection (c).

Subsection (b) of 5 U.S.C. 5726 was derived from subsection (e) of section 1 of the Administrative Expenses Act of 1946, as amended (74 Stat. 796). In the codification of subsection (e), the words "7,000 pounds net weight" were substituted for "the maximum weight limitation provided by subsection (a)". During the pendency of the codification bill, section 1(a)(2) of Public Law 89-516, amended subsection (a) of section 1 of the Administrative Expenses Act of 1946 to increase the maximum weight limitation from 7,000 to 11,000 pounds. Thus, the amendment of subsection (b) is necessary to reflect the current weight limitation applicable.

In subsection (c), the word "employee" is substituted for "civilian officer or employee" to conform to the definitions in 5 U.S.C. 5721(2) and 2105. The words "including a new appointee and a student trainee to the extent authorized by section 5723 of this title" are substituted for "including any new appointee in accordance with section 7(b) of this Act, as amended" for clarity and to reflect the codification of section 7(b) in 5 U.S.C. 5723. The words "continental United States" are coextensive with and substituted for "continental United States, excluding Alaska" on authority of the definition of "continental United States" in 5 U.S.C. 5721(3). The words "head of the agency concerned" are substituted for "head of the Executive Department or agency concerned" to conform to the definition in 5 U.S.C. 5721(1). In the penultimate sentence, the words "sections 5723(a) and 5724(a) of this title" are substituted for "section 1 or 7(b) of this Act" to reflect the codification of sections 1 and 7(b) in 5 U.S.C. 5723(a) and 5724(a); and the word "officer" is omitted as included in "employee". In the last sentence, the words "under this subsection" are inserted for clarity.

Subsection (b) of section 25 of the Administrative Expenses Act of 1946 (added by section 2 of Public Law 89-516) is omitted as executed.

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe the regulations provided for in this section relating to (i) the definition of "household goods and personal effects", (ii) allowable storage expenses and related transportation, and (iii) the allowance of nontemporary storage expenses or storage at Government expense in Government-owned facilities (including related transportation and other expenses) delegated to the Administrator of General Services, see section 1(8) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3735, 5724, 5724a of this title; title 26 section 912.

§ 5727. Transportation of motor vehicles

(a) Except as specifically authorized by statute, an authorization in a statute or regulation to transport the effects of an employee or other individual at Government expense is not an authorization to transport an automobile.

(b) Under such regulations as the President may prescribe, the privately owned motor vehicle of an employee, including a new appointee and a student trainee to the extent authorized by sections 5722 and 5723 of this title, may be transported at Government expense to, from, and between the continental United States and a post of duty outside the continental United States, or between posts of duty outside the continental United States, when—

(1) the employee is assigned to the post of duty for other than temporary duty; and

(2) the head of the agency concerned determines that it is in the interest of the Government for the employee to have the use of a motor vehicle at the post of duty.

(c) An employee may transport only one motor vehicle under subsection (b) of this section during a 4-year period, except when the head of the agency concerned determines that replacement of the motor vehicle during the period is necessary for reasons beyond the control of the employee and is in the interest of the Government, and authorizes in advance the transportation under subsection (b) of this section of one additional privately owned motor vehicle as a replacement. When an employee has remained in continuous service outside the United States during the 4-year period after the date of transportation under subsection (b) of this section of his motor vehicle, the head of the agency concerned may authorize transportation under subsection (b) of this section of a replacement for that motor vehicle.

(d) When the head of an agency authorizes transportation under subsection (b) of this section of a privately owned motor vehicle, the transportation may be by—

(1) commercial means, if available at reasonable rates and under reasonable conditions; or

(2) Government means on a space-available basis.

(e)(1) This section, except subsection (a), does not apply to—

(A) the Foreign Service of the United States; or

(B) the Central Intelligence Agency.

(2) This section, except subsection (a), does not affect—

(A) section 1138 of title 22; or

(B) section 403e(4) of title 50.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 504.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 73c	June 30, 1932, ch. 314, § 209, 47 Stat. 405. Apr. 30, 1940, ch. 172, 54 Stat. 174. Aug. 13, 1946, ch. 957, § 1131 (64), 60 Stat. Stat. 1040.
(b)-(e)	5 U.S.C. 73b-1(f).	Sept. 6, 1960, Pub. L. 86-707, § 321, 74 Stat. 797. Feb. 5, 1964, Pub. L. 88-266, 78 Stat. 8.

In subsection (a), the proviso in former section 73c is omitted as superseded by section 2634 of title 10, and by former section 73b-1(f), which is carried into subsections (b)-(e).

In subsection (b), the words "including a new appointee and a student trainee to the extent authorized by sections 5722 and 5723 of this title" are substituted for "including any new appointee, in accordance with section 73b-3 of this title" for clarity and reflect the codification of former section 73b-3 in this title. The words "at Government expense" are inserted for clarity.

The last sentence of subsection (f) of former section 73b-1 which provided that for the purposes of that subsection and subsection (e), which is carried into section 5726, Alaska shall be considered to be outside the continental limits of the United States is omitted as unnecessary in view of the definition of "continental United States" in section 5721(4).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe the regulations provided for in this section relating to the transportation at Government expense of privately owned motor vehicles delegated to the Administrator of General Services, see section 1(9) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5724, 5724a of this title; title 26 section 912.

§ 5728. Travel and transportation expenses; vacation leave

(a) Under such regulations as the President may prescribe, an agency shall pay from its appropriations the expenses of round-trip travel of an employee, and the transportation of his immediate family, but not household goods, from his post of duty outside the continental United States to the place of his actual residence at the time of appointment or transfer to the post of duty, after he has satisfactorily completed an agreed period of service outside the continental United States and is returning to his actual place of residence to take leave before serving another tour of duty at the same or another post of duty outside the continental United States under a new written agreement made before departing from the post of duty.

(b) Under such regulations as the President may prescribe, an agency shall pay from its appropriations the expenses of round-trip travel of an employee of the United States appointed by the President, by and with the advice and consent of the Senate, for a term fixed by statute, and of transportation of his immediate family, but not household goods, from his post of duty outside the continental United States to the place of his actual residence at the time of appointment to the post of duty, after he has satisfactorily completed each 2 years of service outside the continental United States and is returning to his actual place of residence to take leave before serving at least 2 more years of duty outside the continental United States.

(c) This section does not apply to appropriations for the Foreign Service of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 505.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 73b-3(a) (3d proviso).	Aug. 31, 1954, ch. 1155 (1st proviso), 68 Stat. 1008.
(b)	5 U.S.C. 73b-3(a) (4th proviso).	Sept. 2, 1958, Pub. L. 85-858, 72 Stat. 1274.

The first 14 words of subsections (a) and (b), and subsection (c), are added on authority of former section 73b-3(a) (less 3d-6th provisos), which is carried into section 5722.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

DELEGATION OF FUNCTIONS

Authority of the President under subsecs. (a) and (b) of this section to prescribe the regulations provided for in this section relating to the payment by an agency from its appropriations of the expenses of round trip travel of an employee, and the transportation of his immediate family, in described circumstances delegated to the Administrator of General Services, see section 1(10) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5729. Transportation expenses; prior return of family

(a) Under such regulations as the President may prescribe, an agency shall pay from its appropriations, not more than once before the return to the United States or its territories or possessions of an employee whose post of duty is outside the continental United States, the expenses of transporting his immediate family and of shipping his household goods and personal effects from his post of duty to his actual place of residence when—

(1) he has acquired eligibility for that transportation; or

(2) the public interest requires the return of the immediate family for compelling personal reasons of a humanitarian or compassionate nature, such as may involve physical or mental health, death of a member of the immediate family, or obligation imposed by authority or circumstances over which the individual has no control.

(b) Under such regulations as the President may prescribe, an agency shall reimburse from its appropriations an employee whose post of duty is outside the continental United States for the proper transportation expenses of returning his immediate family and his household goods and personal effects to the United States or its territories or possessions, when—

(1) their return was made at the expense of the employee before his return and for other than reasons of public interest; and

(2) he acquires eligibility for those transportation expenses.

(c) This section does not apply to appropriations for the Foreign Service of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 505.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 73b-3(a) (5th and 6th provisos).	Aug. 31, 1954, ch. 1155 (less 1st proviso), 68 Stat. 1008.

The first 14 words of subsections (a) and (b), and subsection (c), are added on authority of former section 73b-3(a) (less 3d-6th provisos), which is carried into section 5722. The words "household effects" and "household goods" in the 5th and 6th provisos of former section 73b-3(a) are changed to "household goods and personal effects" for clarity and consistency in the use of the words elsewhere in this subchapter.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Delegation of Functions

Authority of the President under subsecs. (a) and (b) of this section to prescribe the regulations provided for therein, relating to (i) the payment by an agency from its appropriations of the expenses of transporting the immediate family of an employee and of shipping his household goods and personal effects, and (ii) the reimbursement from its appropriations by an agency of an employee for the proper transportation expense of returning his immediate family and household goods and personal effects, both in described circumstances, delegated to the Administrator of General Services, see section 1(11) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5730. Funds available

Funds available for travel expenses of an employee are available for expenses of transportation of his immediate family, and funds available for transportation of things are available for transportation of household goods and personal effects, as authorized by this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 506.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 73b-1(c).	Aug. 2, 1946, ch. 744, § 1(c), 60 Stat. 807.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5731. Expenses limited to lowest first-class rate

(a) The allowance for actual expenses for transportation may not exceed the lowest first-class rate by the transportation facility used unless it is certified, in accordance with regulations prescribed by the President, that—

(1) lowest first-class accommodations are not available; or

(2) use of a compartment or other accommodation authorized or approved by the head of the agency concerned or his designee is required for security purposes.

(b) Instead of the maximum fixed by subsection (a) of this section, the allowance to an employee of the United States for actual expenses for transportation on an inter-island steamship in Hawaii may not exceed the rate for accommodations on the steamship that is equivalent as nearly as possible to the rate for the lowest first-class accommodations on trans-pacific steamships.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 506.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 73b	Mar. 3, 1933, ch. 212, § 10, 47 Stat. 1516. Aug. 2, 1946, ch. 744, § 6, 60 Stat. 808.
(b)	5 U.S.C. 73e	May 28, 1938, ch. 289, § 811, 52 Stat. 577.

In subsection (a), the words "by or under authority of law" are omitted as surplusage.

In subsection (b), the words "by or under authority of law" are omitted as surplusage. The words "after the date of the enactment of this Act" are omitted as obsolete.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Delegation of Functions

Authority of the President under subsec. (a) of this section to prescribe the regulations provided for therein, relating to certifications respecting transportation accommodations, delegated to the Administrator of General Services, see section 1(12) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Section Referred to in Other Sections

This section is referred to in title 2 section 476; title 16 sections 916*l*, 961, 971h, 1032; title 22 sections 287e, 287r, 1157, 2024; title 42 section 2477.

§ 5732. General average contribution; payment or reimbursement

Under such regulations as the President may prescribe, appropriations chargeable for the transportation of baggage and household goods and personal effects of employees of the United States, volunteers as defined by section 8142(a) of this title, and members of the uniformed services are available for the payment or reimbursement of general average contributions required. Appropriations are not available for the payment or reimbursement of general average contributions—

(1) required in connection with and applicable to quantities of baggage and household goods and personal effects in excess of quantities authorized by statute or regulation to be transported;

(2) when the individual concerned is allowed under statute or regulation a commutation instead of actual transportation expenses; or

(3) when the individual concerned selected the means of shipment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 506.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 73b-5	June 4, 1954, ch. 264, § 4, 68 Stat. 176.
....	22 U.S.C. 2504 (h) (as applicable to 5 U.S.C. 73b-5).	Dec. 13, 1963, Pub. L. 88-200, § 2(e) (as applicable to the Act of June 4, 1954, ch. 264, § 4 (5 U.S.C. 73b-5)), 77 Stat. 360.

The word "personal" is added before the word "effects" for clarity and to preserve consistency throughout this subchapter. The words "employees of the United States . . . and members of the uniformed services" are substituted for "military personnel and civilian employees of departments and agencies of the Federal Government". The words "a volunteer as defined by section 8142(a) of this title" are based on sections 2504(a), 2505, and 2507 (a) of title 22. The words "pursuant to law" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EX. ORD. NO. 10614. PAYMENT OF GENERAL-AVERAGE CONTRIBUTIONS IN CONNECTION WITH TRANSPORTATION OF EFFECTS

Ex. Ord. No. 10614, May 25, 1955, 20 F.R. 3699, provided:

SECTION 1. *Definitions.* As used in these regulations:

(a) The term "military personnel" means members and former and deceased members of the uniformed services as defined in section 102 of the Career Compensation Act of 1949 (63 Stat. 804) [now section 101 of Title 37].

(b) The term "civilian employees" means civilian officers and employees of a department, including Foreign Service personnel, and former and deceased civilian officers and employees.

(c) The terms "military personnel" and "civilian employees" shall also include those individuals enumerated under the term "person" as defined in section 1 of the Missing Persons Act, as amended [now section 5561 of this title].

(d) The term "department" means an executive department, independent establishment, or other agency of the Federal Government, including wholly-owned or controlled Government corporations.

(e) The term "general-average contribution" means the contribution by all parties to a sea venture (1) to make good the loss sustained by any one of their number on account of voluntary sacrifices made of part of the ship or cargo to save the residue or the lives of those on board from impending peril, or (2) for extraordinary expenses necessarily incurred for the common benefit and safety of all.

(f) The term "household goods" means such baggage, household goods, and effects, including privately-owned automobiles and professional books, papers, and equipment, of military personnel and civilian employees as are authorized to be transported at Government expense by law or regulations pursuant to law.

SEC. 2. *Allowance of general-average contributions.* Whenever military personnel or civilian employees of a department are liable for general-average contributions arising out of shipments of household goods (as defined in section 1 (f) hereof), authorized or approved under law or regulations pursuant to law, disbursements shall be made, under rules and regulations prescribed by the head of the department concerned, from appropriations chargeable for the transportation of baggage and household goods and effects (a) for the payment of the general-average contributions for which such military personnel or civilian employees are liable, or (b) for the reimbursement of such military personnel or civilian employees in the amounts of their general-average liability paid by them and for which receipts are furnished, subject to the limitations set forth in section 3 hereof.

SEC. 3. *Limitations.* The provisions of section 2 hereof shall not apply:

(a) In case the shipment of household goods is made under law or regulation pursuant to law which provides for reimbursement to the military person or civilian employee concerned on a commuted basis in lieu of payment by the Government of the actual costs of the shipment; or

(b) In case the military person or civilian employee concerned has himself selected the means of shipment; or

(c) To quantities of household goods (excluding automobiles) shipped in excess of quantities authorized to be transported by law or regulation pursuant to law. In any case of such excess shipment, the liability of the Government for the employee's general-average contribution shall not exceed the proportion that the applicable limitation, by weight or volume, bears to the total quantity, by weight or volume, of the household goods shipped.

SEC. 4. *Effective date.* This order shall be effective in any case in which the loss involved occurs, or has occurred, on or after June 4, 1954.

DWIGHT D. EISENHOWER.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred in title 12 section 1701h; title 22 section 2504.

§ 5733. Expeditious travel

The travel of an employee shall be by the most expeditious means of transportation practicable and shall be commensurate with the nature and purpose of the duties of the employee requiring such travel.

(Added Pub. L. 90-206, title II, § 222(c)(1), Dec. 16, 1967, 81 Stat. 641.)

EFFECTIVE DATE

Section effective thirty days after Dec. 16, 1967, see section 220(a)(4) of Pub. L. 90-206, set out as a note under section 5542 of this title.

SUBCHAPTER III—TRANSPORTATION OF REMAINS, DEPENDENTS, AND EFFECTS

§ 5741. General prohibition

Except as specifically authorized by statute, the head of an Executive department or military department may not authorize an expenditure in connection with the transportation of remains of a deceased employee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 506.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 103	June 7, 1897, ch. 3, § 1 (last proviso on p. 86), 30 Stat. 86.

The words "a military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63

Stat. 591), which is set out in the reviser's note for section 301.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5742. Transportation of remains, dependents, and effects; death occurring away from official station or abroad

(a) For the purpose of this section, "agency" means—

(1) an Executive agency;

(2) a military department;

(3) an agency in the legislative branch; and

(4) an agency in the judicial branch.

(b) When an employee dies, the head of the agency concerned, under regulations prescribed by the President and, except as otherwise provided by law, may pay from appropriations available for the activity in which the employee was engaged—

(1) the expense of preparing and transporting the remains to the home or official station of the employee, or such other place appropriate for interment as is determined by the head of the agency concerned, if death occurred while the employee was in a travel status away from his official station in the United States or while performing official duties outside the United States or in transit thereto or therefrom; and

(2) the expense of transporting his dependents, including expenses of packing, crating, draying, and transporting household effects and other personal property to his former home or such other place as is determined by the head of the agency concerned, if death occurred while the employee was performing official duties outside the United States or in transit thereto or therefrom.

(c) When a dependent of an employee dies while residing with the employee performing official duties outside the continental United States or in Alaska or in transit thereto or therefrom, the head of the agency concerned may pay the necessary expenses of transporting the remains to the home of the dependent, or such other place appropriate for interment as is determined by the head of the agency concerned. If practicable, the agency concerned in respect of the deceased may furnish mortuary services and supplies on a reimbursable basis when—

(1) local commercial mortuary facilities and supplies are not available; or

(2) the cost of available mortuary facilities and supplies are prohibitive in the opinion of the head of the agency.

Reimbursement for the cost of mortuary services and supplies furnished under this subsection shall be collected and credited to current appropriations available for the payment of these costs.

(d) The benefits of this section may not be denied because the deceased was temporarily absent from duty when death occurred.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 507.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(c)	5 U.S.C. 103a	July 8, 1940, ch. 551, § 1, 54 Stat. 743. July 15, 1954, ch. 507, § 7(b), 68 Stat. 479.
(d)	5 U.S.C. 103b	July 8, 1940, ch. 551, § 2, 54 Stat. 744.

Subsection (a) is based on the words "department, independent establishment, agency, or federally owned or controlled corporation, hereinafter called department" in former section 103a. The terms "Executive agency" and "military department" include a department, independent establishment, agency, or federally owned or controlled corporation in the executive branch because of the definitions in sections 105 and 102.

The words "a military department" are included to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force, as military departments, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Subsection (b) is restated for clarity and conciseness and to eliminate redundancy. In paragraphs (1) and (2), the words "outside the United States" are coextensive with and substituted for "in a Territory or possession of the United States or in a foreign country".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

DELEGATION OF FUNCTIONS

Authority of the President under subsection (b) of this section to prescribe regulations with respect to the payment of expenses when an employee dies delegated to the Administrator of General Services, see section 1(13) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3375 of this title.

SUBCHAPTER IV—MISCELLANEOUS PROVISIONS

AMENDMENTS

1970—Pub. L. 91-563, § 4(a), Dec. 19, 1970, 84 Stat. 1477, added heading of Subchapter IV.

§ 5751. Travel expenses of witnesses

(a) Under such regulations as the Attorney General may prescribe, an employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) summoned, or assigned by his agency, to testify or produce official records on behalf of the United States is entitled to travel expenses under subchapter I of this chapter. If the case involves the activity in connection with which he is employed, the travel expenses are paid from the appropriation otherwise available for travel expenses of the employee under proper certification by a certifying official of the agency concerned. If the case does not involve its activity, the employing agency may advance or pay the travel expenses of the employee, and later obtain reimbursement from the agency properly chargeable with the travel expenses.

(b) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) summoned, or assigned by his agency, to testify in his official capacity or produce official records, on behalf of a party other than the United States, is entitled to travel expenses under subchapter I of this chapter, except to the extent that travel expenses are paid to the employee for his appearance by the court, authority, or party which caused him to be summoned.

(Added Pub. L. 91-563, § 4(a), Dec. 19, 1970, 84 Stat. 1477.)

CHAPTER 59—ALLOWANCES

SUBCHAPTER I—UNIFORMS

Sec.
5901. Uniform allowances.
5902. Increase in maximum uniform allowance.
5903. Regulations.

SUBCHAPTER II—QUARTERS
5911. Quarters and facilities; employees in the United States.
5912. Quarters in Government owned or rented buildings; employees in foreign countries.
5913. Official residence expenses.

SUBCHAPTER III—OVERSEAS DIFFERENTIALS AND ALLOWANCES
5921. Definitions.
5922. General provisions.
5923. Quarters allowances.
5924. Cost-of-living allowances.
5925. Post differentials.

SUBCHAPTER IV—MISCELLANEOUS ALLOWANCES
5941. Allowances based on living costs and conditions of environment; employees stationed outside continental United States or in Alaska.
5942. Allowance based on duty at remote worksites.
5943. Foreign currency appreciation allowances.
5944. Illness and burial expenses; native employees in foreign countries.
5945. Notary public commission expenses.
5946. Membership fees; expenses of attendance at meetings; limitations.
5947. Quarters, subsistence, and allowances for employees of the Corps of Engineers, Department of the Army, engaged in floating plant operations.

AMENDMENTS

1971—Pub. L. 91-656, §§ 6(c), 7(b), Jan. 8, 1971, 84 Stat. 1954, substituted "duty at remote worksites" for "duty on California offshore islands or at Nevada Test Site" in item 5942 and added item 5947.

1967—Pub. L. 90-83, § 1(40)(B), (42), Sept. 11, 1967, 81 Stat. 206, 207, added items 5902 and 5903, and inserted "or at Nevada Test Site" in item 5942.

SUBCHAPTER I—UNIFORMS

§ 5901. Uniform allowances

(a) There is authorized to be appropriated annually to each agency of the Government of the United States, including a Government owned corporation, and of the government of the District of Columbia, on a showing of necessity or desirability, an amount not to exceed $125 multiplied by the number of employees of the agency who are required by regulation or statute to wear a prescribed uniform in the performance of official duties and who are not being furnished with the uniform. The head of the agency concerned, out of funds made available by the appropriation, shall—

(1) furnish to each of these employees a uniform at a cost not to exceed $125 a year; or

(2) pay to each of these employees an allowance for a uniform not to exceed $125 a year.

The allowance may be paid only at the times and in the amounts authorized by the regulations prescribed under section 5903 of this title. When the agency pays direct to the uniform vendor, the head of the agency may deduct a service charge of not more than 4 percent.

(b) When the furnishing of a uniform or the payment of a uniform allowance is authorized under another statute or regulation existing on September 1, 1954, the head of the agency concerned may continue the furnishing of the uniform or the payment of the uniform allowance under that statute or regulation, but in that event a uniform may not be furnished or allowance paid under this section.

(c) An allowance paid under this section is not wages within the meaning of section 409 of title 42 or chapters 21 and 24 of title 26.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 508; Pub. L. 90-83, § 1(39), Sept. 11, 1967, 81 Stat. 206.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 2131	Sept. 1, 1954, ch. 1208, § 402, 68 Stat. 1114. May 13, 1955, ch. 40, 69 Stat. 49.
(c)	5 U.S.C. 2132 (less applicability to the Civil Service Retirement Act, as amended).	Sept. 1, 1954, ch. 1208, § 403 (less applicability to the Civil Service Retirement Act, as amended), 68 Stat. 1115.
(d)	5 U.S.C. 2133	Sept. 1, 1954, ch. 1208, § 404, 68 Stat. 1115.

In subsection (a), the word "concerned" is substituted for "to which any such appropriation is made".

In subsection (b), the words "in his discretion" are omitted as unnecessary in view of the permissive nature of the authority.

In subsections (b) and (d), the word "rules" is omitted as covered by the word "regulations".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5901(a)	5 App.: 2131	Oct. 29, 1965, Pub. L. 89-301 § 13, 79 Stat. 1122. July 18, 1966, Pub. L. 89-504, § 407(a), 80 Stat. 299.

The amendment to the third sentence of subsection (a) of 5 U.S.C. 5901, and the deletion of subsection (d) thereof, reflect the recodification of subsection (d) in 5 U.S.C. 5903 by section 1(40)(A) of this bill. In the last sentence of subsection (a), the words "When" and "pays" are substituted for "In those instances where" and "makes reimbursement", respectively.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5902, 8331 of this title; title 16 section 1a-4; title 43 section 1468; title 44 section 309.

§ 5902. Increase in maximum uniform allowance

Notwithstanding section 5901 of this title, each of the respective maximum uniform allowances in effect on April 1, 1966, for the respective categories of employees to whom uniform allowances are paid under section 5901 of this title are increased, subject to the maximum allowance authorized by section 5901 of this title, as follows:

(1) If the maximum uniform allowance is $100 or more, it is increased by 25 percent.

(2) If the maximum uniform allowance is $75 or more but less than $100, it is increased by 30 percent.

(3) If the maximum uniform allowance is $50 or more but less than $75, it is increased by 35 percent.

(4) If the maximum uniform allowance is less than $50, it is increased by 40 percent.

The maximum uniform allowances, as in effect on April 1, 1966, and as increased by this section, may not be reduced.

(Added Pub. L. 90-83, § 1(40)(A), Sept. 11, 1967, 81 Stat. 206.)

HISTORICAL AND REVISION NOTES

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5902	5 App.: 2134	July 18, 1966, Pub. L. 89-504, § 407(b), 80 Stat. 299.

The words "any other provision of" following "Notwithstanding" are omitted as unnecessary. The words "section 5901 of this title" are substituted for "this title" in three places to reflect the codification of that title in title 5, United States Code.

§ 5903. Regulations

The Director of the Bureau of the Budget shall prescribe regulations necessary for the uniform administration of this subchapter.

(Added Pub. L. 90-83, § 1(40)(A), Sept. 11, 1967, 81 Stat. 206.)

HISTORICAL AND REVISION NOTES

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5903	5: 5901(d)	[None.]

The regulatory authority contained in 5 U.S.C. 5901(d), the source statute for which was section 404 of the act of September 1, 1954, ch. 1208, 68 Stat. 1115, applies also to section 405 of that act (added by section 407 of the act of July 18, 1966, Public Law 89-504, 80 Stat. 299). Section 405 is codified as 5 U.S.C. 5902 by this bill.

TRANSFER OF FUNCTIONS

All functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to this title. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget.

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe regulations necessary for the uniform administration of subchapter I of chapter 59 of this title relating to uniform allowances delegated to the United States Civil Service Commission, see section 8(2) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5901 of this title.

SUBCHAPTER II—QUARTERS

§ 5911. Quarters and facilities; employees in the United States

(a) For the purpose of this section—

(1) "Government" means the Government of the United States;

(2) "agency" means an Executive agency, but does not include the Tennessee Valley Authority;

(3) "employee" means an employee of an agency;

(4) "United States" means the several States, the District of Columbia, and the territories and possessions of the United States including the Commonwealth of Puerto Rico;

(5) "quarters" means quarters owned or leased by the Government; and

(6) "facilities" means household furniture and equipment, garage space, utilities, subsistence, and laundry service.

(b) The head of an agency may provide, directly or by contract, an employee stationed in the United States with quarters and facilities, when conditions of employment or of availability of quarters warrant the action.

(c) Rental rates for quarters provided for an employee under subsection (b) of this section or occupied on a rental basis by an employee or member of a uniformed service under any other provision of statute, and charges for facilities made available in connection with the occupancy of the quarters, shall be based on the reasonable value of the quarters and facilities to the employee or member concerned, in the circumstances under which the quarters and facilities are provided, occupied, or made available. The amounts of the rates and charges shall be paid by, or deducted from the pay of, the employee or member of a uniformed service, or otherwise charged against him in accordance with law. The amounts of payroll deductions for the rates and charges shall remain in the applicable appropriation or fund. When payment of the rates and charges is made by other than payroll deductions, the amounts of payment shall be credited to the Government as provided by law.

(d) When, as an incidental service in support of a program of the Government, quarters and facilities are provided by appropriate authority of the Government to an individual other than an employee or member of a uniformed service, the rates and charges therefor shall be determined in accordance with this section. The amounts of payment of the rates and charges shall be credited to the Government as provided by law.

(e) The head of an agency may not require an employee or member of a uniformed service to occupy quarters on a rental basis, unless the agency head determines that necessary service cannot be rendered, or that property of the Government cannot adequately be protected, otherwise.

(f) The President may prescribe regulations governing the provision, occupancy, and availability of quarters and facilities, the determination of rates and charges therefor, and other related matters, necessary and appropriate to carry out this section. The head of each agency may prescribe regulations, not inconsistent with the regulations of the President, necessary and appropriate to carry out the functions of the agency head under this section.

(g) Subsection (c) of this section does not repeal or modify any provision of statute authorizing the provision of quarters or facilities, either without charge or at rates or charges specifically fixed by statute.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 508.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 3121	Aug. 20, 1964, Pub. L. 88-459, § 1, 78 Stat. 557.
(b)	5 U.S.C. 3122	Aug. 20, 1964, Pub. L. 88-459, § 4, 78 Stat. 557.
(c)	5 U.S.C. 3123	Aug. 20, 1964, Pub. L. 88-459, § 3, 78 Stat. 557.
(d)	5 U.S.C. 3124	Aug. 20, 1964, Pub. L. 88-459, § 3, 78 Stat. 557.
(e)	5 U.S.C. 3125	Aug. 20, 1964, Pub. L. 88-459, § 5, 78 Stat. 557.
(f)	5 U.S.C. 3126	Aug. 20, 1964, Pub. L. 88-459, § 6, 78 Stat. 558.
(g)	5 U.S.C. 3127	Aug. 20, 1964, Pub. L. 88-459, § 7, 78 Stat. 558.

In subsection (a)(2), the term "Executive agency" is coextensive with and substituted for "each executive department of the Government", "each agency or independent establishment in the executive branch of the Government", "each corporation owned or controlled by the Government", and "the General Accounting Office" in view of the definition of "Executive agency" in section 105.

In subsection (a)(3), the term "employee" is substituted for "civilian officer or employee" in view of the definition of "employee" in section 2105.

Subsection (a)(7) of former section 3121 is omitted as unnecessary in view of the definition of "uniformed services" in section 2101.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Delegation of Functions

Authority of the President under subsec. (f) of this section to issue the regulations provided for therein (relating to the provision, occupancy, and availability of quarters and facilities, the determination of rates and charges therefor, and other related matters, as are necessary and appropriate to carry out the provisions of this section) delegated to the Director of the Office of Management and Budget, see section 9(1) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

Cross References

Deductions from salaries of officers and crews of vessels of the Fish and Wildlife Service for quarters and rations as unauthorized by this section, see section 754 of Title 16, Conservation.

Section Referred to in Other Sections

This section is referred to in title 16 section 754.

§ 5912. Quarters in Government owned or rented buildings; employees in foreign countries

Under regulations prescribed by the head of the agency concerned and approved by the President, an employee who is a citizen of the United States permanently stationed in a foreign country may be furnished, without cost to him, living quarters, including heat, fuel, and light, in a Government owned or rented building. The rented quarters may be furnished only within the limits of appropriations made therefor.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 509.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118a	June 26, 1930, ch. 622, 46 Stat. 818. Sept. 6, 1960, Pub. L. 86-707, § 511(c) (6), 74 Stat. 801.

The words "which appropriations are hereby authorized" are omitted as unnecessary in view of section 5509.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in title 20 section 905; title 22 sections 287e, 287r.

§ 5913. Official residence expenses

(a) For the purpose of this section, "agency" has the meaning given it by section 5721 of this title.

(b) Under such regulations as the President may prescribe, funds available to an agency for administrative expenses may be allotted to posts in foreign countries to defray the unusual expenses incident to the operation and maintenance of official residences suitable for—

(1) the chief representatives of the United States at the posts; and

(2) such other senior officials of the Government of the United States as the President may designate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 510.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3039	Aug. 2, 1946, ch. 744 § 22, added Sept. 6, 1960, Pub. L. 86-707, § 311(a), 74 Stat. 796.

The word "agency" is substituted for "department" and defined to conform to the definition of "department" in section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Delegation of Functions

Secretary of State empowered to prescribe regulations governing the allotment to posts in foreign countries, for the purpose stated in this section, of funds available to the departments for administrative expenses, and to designate senior officials of this Government in foreign countries, see section 1(c) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 sections 287e, 2687; title 26 section 912.

SUBCHAPTER III—OVERSEAS DIFFERENTIALS AND ALLOWANCES

§ 5921. Definitions

For the purpose of this subchapter—

(1) "Government" means the Government of the United States;

(2) "agency" means an Executive agency and the Library of Congress, but does not include a Government controlled corporation;

(3) "employee" means an employee in or under an agency and more specifically defined by regulations prescribed by the President;

(4) "United States", when used in a geographical sense, means the several States and the District of Columbia;

(5) "continental United States" means the several States and the District of Columbia, but does not include Alaska or Hawaii; and

(6) "foreign area" means—

(A) the Trust Territory of the Pacific Islands; and

(B) any other area outside the United States, the Commonwealth of Puerto Rico, the Canal Zone, and territories and possessions of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 510.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3032	Sept. 6, 1960, Pub. L. 86-707, § 111, 74 Stat. 792.

In paragraph (1), the words "of America" are omitted as unnecessary.

In paragraph (2), the word "agency" is substituted for "Government agency". The term "Executive agency" is substituted for the reference to "each executive department of the Government, each independent establishment or agency in the executive branch of the Government, including each corporation wholly owned (either directly or through one or more corporations) by the Government". The exception of "a Government controlled corporation" is added to preserve the application of this subchapter to corporations wholly owned by the Government.

In paragraph (3), the word "employee" is substituted for "individual in the civilian service" in view of the definition of "employee" in section 2105. Reference to "ambassadors, ministers, and officers of the Foreign Service under the Department of State" is omitted as included in the definition of "employee".

In paragraph (4), the words "of the United States of America" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENT, MODIFICATION, OR SUPERSEDURE OF PROVISIONS INCONSISTENT WITH THE OVERSEAS DIFFERENTIALS AND ALLOWANCES ACT

Section 511(b) of Pub. L. 86-707, Sept. 6, 1960, 74 Stat. 800, Overseas Differentials and Allowances Act, provided that: "Any provision of law which is not repealed by subsection (a) of this section but is inconsistent with any provision of this Act or of any amendment made by this Act [which added former chapter 37 of this title, now covered by this subchapter, amended other sections as shown in the Tables, and added material set out as notes under this section and section 912 of Title 26, Internal Revenue] shall be held and considered to be amended, modified, or superseded to the extent necessary to carry out the purposes of and conform to such provision of this Act or of such amendment."

APPROPRIATIONS

Section 501(a) of Pub. L. 86-707, Sept. 6, 1960, 74 Stat. 800, Overseas Differentials and Allowances Act, provided that: "There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act and the amendments made by this Act [which added former chapter 37 of this title, now covered by this subchapter, amended other sections as shown in the Tables, and added material set out as notes under this section and section 912 of Title 26, Internal Revenue Code]."

REFERENCES TO PROVISIONS AFFECTED BY THE OVERSEAS DIFFERENTIALS AND ALLOWANCES ACT

Section 521 of Pub. L. 86-707, Sept. 6, 1960, 74 Stat. 802, Overseas Differentials and Allowances Act, provided that: "Whenever reference is made in any other law or in any regulation to any provision of law which is repealed, modified, amended, or superseded by reason of section 511 of this Act [which repealed former sections 170g(b), 170r and 170s of this title, sections 888, 1132, 1133 and 1136(9) of Title 22, Foreign Relations and Intercourse, and sections 403a(d) and 403e(b) of Title 50, War and National Defense, amended former section 118a of this title, section 1131 of Title 22, and sections 403a(c) and 403e(1)(A), (3) (A-C) of Title 50, and enacted a note under this section], such reference, unless inconsistent with this Act shall be held and considered to refer to this Act or the appropriate provision of, or amendment made by, this Act."

TRANSITIONAL PROVISIONS FOR PAYMENT OF ALLOWANCES AND DIFFERENTIALS

Section 522 of Pub. L. 86-707, Sept. 6, 1960, 74 Stat. 802, Overseas Differentials and Allowances Act, provided that: "Notwithstanding any provision of this Act [which added former chapter 37 of this title, now covered by this subchapter, amended other sections as shown in the Tables, and added material set out as notes under this section and section 912 of Title 26, Internal Revenue] and until such time as regulations are issued under this Act, employees shall continue to be paid allowances and differentials in accordance with rules and regulations issued pursuant to the laws in effect immediately prior to the enactment of this Act [Sept. 6, 1960] and such rules and regulations may be amended or revoked in accordance with the provision of such laws."

EX. ORD. NO. 10903. DELEGATION OF REGULATORY AUTHORITY

Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, as amended by Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739; Ex. Ord. No. 11230, June 28, 1965, 30 F.R. 8447; Ex. Ord. No. 11380, Nov. 8, 1967, 32 F.R. 15627, provided;

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, section 303 of the Foreign Service Act of 1946 (22 U.S.C. 843), and various provisions of law cited in the body of this order, and as President of the United States, it is hereby ordered as follows:

SECTION 1. The Secretary of State is hereby designated and empowered to perform the following-described functions without the approval, ratification, or other action of the President:

(a) The authority vested in the President by section 111(3) of the Overseas Differentials and Allowances Act (74 Stat. 792) [former section 3032(3) of this title, now par. (3) of this section] to prescribe regulations defining the term "employee".

(b) The authority vested in the President by Title II of the Overseas Differentials and Allowances Act [former sections 3033-3038, now sections 5922-5925 of this title] to prescribe regulations, including the regulations referred to in sections 202, 203, and 221(4)(B) of that Act [former sections 3034, 3035, 3037(4)(B), now sections 5922(b), (c) and 5924(4)(B) of this title] (governing, respectively, (1) certain waivers of recovery, (2) the payment of allowances and differentials authorized by Title II of the Act [former sections 3033-3038, now sections 5922-5925, of this title] and certain other matters, and (3) travel expenses for dependents of certain employees).

(c) The authority vested in the President by section 22 of the Administrative Expenses Act of 1946 (added by section 311(a) of the Overseas Differentials and Allowances Act) [former section 3039, now section 5913, of this title], (1) to prescribe regulations governing the allotment to posts in foreign countries, for the purpose stated in that section, of funds available to the departments for administrative expenses, and (2) to designate senior officials of this Government in foreign countries.

(d) The authority vested in the President by section 901 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1131) to prescribe regulations governing allowances in order to provide for the proper representation of the United States by officers or employees of the Foreign Service.

(e) The authority vested in the President by other provisions of law (including section 235(a)(2) of title 38 of the United States Code) to prescribe regulations governing representation allowances similar to those authorized by section 901 of the Foreign Service Act of 1946, as amended [section 1131 of Title 22, Foreign Relations and Intercourse].

(f) The authority vested in the President by section 853 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1093) to establish from time to time a list of places which by reason of climatic or other extreme conditions are to be classed as unhealthful posts, and to cancel the designation of any place as unhealthful. Each place designated as unhealthful by the Secretary hereunder shall be so designated as of January 1, 1942, or as of a later date to be fixed by the Secretary.

(g) The authority vested in the President by section 5912 of title 5 of the United States Code to approve regulations prescribed by heads of agencies (under which employees who are citizens of the United States permanently stationed in foreign countries may be furnished, without cost to them, living quarters, including heat, fuel, and light, in government-owned or rented buildings).

Sec. 2. (1) [Superseded by Ex. Ord. No. 11230, § 2(8), June 28, 1965, 30 F.R. 8447]

Sec. 2 (2) [Superseded by Ex. Ord. No. 11228, § 3(5), June 14, 1965, 30 F.R. 7739]

Sec. 3. That portion of section 2 of Executive Order No. 10624 of July 28, 1955 [set out as a note under section 1762 of Title 7, Agriculture], which precedes the proviso thereof, is hereby amended to read as follows:

"Sec. 2. In addition to rules and regulations, pertaining to allowances and benefits, otherwise applicable to personnel assigned abroad under Title VI of the Act of August 28, 1954 [chapter 43 of Title 7, Agriculture], there shall be applicable to the personnel rules and regulations prescribed by the Secretary of State in pursuance of (1) so much of the authority vested in the President by Title II of the Overseas Differentials and Allowances Act [former sections 3033-3038, now sections 5922-5925, of this title], or by any amendment thereof, as relates to quarters allowances of cost-of-living allowances, and (2) so much of the authority vested in the President and the Secretary of State by Title IX of the Foreign Service Act of 1946 [subchapter IX of chapter 14 of Title 22, Foreign Relations and Intercourse], or by any amendment thereof, as relates to allowances and benefits under the said Title IX [subchapter IX of chapter 14 of Title 22, Foreign Relations and Intercourse]:"

Sec. 4. (a) Section 2 of Executive Order No. 10853 of November 27, 1959, is hereby amended to read as follows:

"Sec. 2. The Secretary of State is hereby authorized and directed to exercise the following-described statutory powers of the President:

"(a) That part of the functions vested in the President by section 7(a) of the Defense Department Overseas Teachers Pay and Personnel Practices Act (73 Stat. 216; 5 U.S.C. 2355(a)) [former section 2355(a) of this title, now section 905(a) of Title 20, Education] which consists of authority to prescribe regulations relating to quarters and quarters allowance.

"(b) The authority vested in the President by section 8(a)(1) of the Defense Department Overseas and Teachers Pay and Personnel Practices Act (73 Stat. 216; 5 U.S.C. 2356(a)(1)) [former section 2356(a)(1) of this title, now section 906(a)(1) of Title 20, Education] to prescribe regulations relating to cost-of-living allowances.

"(c) The authority vested in the President by section 235(a) of title 38 of the United States Code to prescribe rules and regulations with respect to allowances and benefits similar to those provided for in section 941 of the Foreign Service Act of 1946, as amended (22 U.S.C. 1156)."

(b) The reference in section 1 of Executive Order No. 10853 of November 27, 1959, to the regulations contained in Executive Order No. 10000 of September 16, 1948, shall be deemed to include a reference to the corresponding regulations prescribed in pursuance of the provisions of this order.

Sec. 5. (a) The following-described Executive order and parts thereof are hereby revoked, subject to the provisions of section 5(b) of this order:

1. Parts I, III, IV, and V of Executive Order No. 10000 of September 16, 1948.
2. Executive Order No. 10011 of October 22, 1948.
3. Executive Order No. 10085 of October 28, 1949.
4. Executive Order No. 10100 of January 28, 1950.
5. Executive Order No. 10187 of December 4, 1950.
6. Executive Order No. 10261 of June 27, 1951.
7. Executive Order No. 10313 of December 14, 1951.
8. Executive Order No. 10391 of September 3, 1952.
9. Executive Order No. 10503 of December 1, 1953.
10. Executive Order No. 10623 of July 23, 1955.
11. Section 1 and, to the extent that it pertains to Executive Order No. 10000, section 3 of Executive Order No. 10636 of September 16, 1955.

(b) Existing rules and regulations prescribed in or pursuant to the Executive order provisions revoked by section 5(a) of this order, other existing rules and regulations pertaining to allowances, differentials, and other benefits corresponding to those authorized by the provisions of law referred to in this order and actions heretofore taken in pursuance of any thereof shall remain in effect until hereafter superseded in pursuance of the provisions of this order.

Sec. 6. This order and such of the regulations prescribed by the Secretary of State, the Director of the Bureau of the Budget, and the Civil Service Commission thereunder as the Secretary, Director, and Commission shall, respectively, determine, shall be published in the Federal Register.

Dwight D. Eisenhower

Ex. Ord. No. 11137 Allowances and Benefits

Ex. Ord. No. 11137, Jan. 7, 1964, 29 F.R. 223, as amended by Ex. Ord. No. 11382, Nov. 28, 1967, 32 F.R. 16247, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code and by the various provisions of law cited in the body of this order, and as President of the United States it is ordered as follows:

Part I—Allowances and Differentials in Foreign Areas

Section 101. The term "employee", as defined in 5 U.S.C. 5921(3), is hereby further defined as including civilian employees, compensated from non-appropriated funds, of the instrumentalities of the United States under the jurisdiction of the armed forces covered by 5 U.S.C. 2105(c).

Sec. 102. The Secretary of each military department with respect to his department, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by 5 U.S.C. 5922(c) to prescribe regulations governing payments of allowances and differentials in foreign areas to the extent that the said authority is in respect of employees referred to in section 101 of this order whose rates of basic compensation from nonappropriated funds are fixed in accordance with regulations prescribed by the Secretary concerned.

Sec. 103. Regulations prescribed under authority delegated by the provisions of Section 102 hereof:

(a) Shall, so far as practicable, be uniform.

(b) In the case of regulations prescribed by the Secretaries of the military departments, shall require the approval of the Secretary of Defense.

(c) Shall not, with respect to any locality, authorize allowances or differentials which exceed those prescribed under Executive Order No. 10903 of January 9, 1961, [set out as a note under this section], for other employees of the United States in the same locality.

Sec. 104. Executive Order No. 10903 of January 9, 1961, [set out as a note under this section], is hereby modified to the extent of the definition and the delegations of authority contained in Sections 101 and 102 hereof.

Part II—Cost of Living Allowances in Certain Non-foreign Areas

Sec. 201. The Secretary of Defense with respect to the military departments, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by paragraph (2) of Section 912 of the Internal Revenue Code of 1954, as amended (26 U.S.C. 912(2)), to approve the regulations there contemplated to the extent that the said regulations are in respect of the payment of cost-of-living allowances to employees, compensated from nonappropriated funds, of instrumentalities of the United States under the jurisdiction of the armed forces covered by 5 U.S.C. 2105(c), who are stationed outside the continental United States or in Alaska.

Sec. 202. Regulations approved under authority delegated by the provisions of Section 201 hereof:

(a) Shall, so far as practicable, be uniform.

(b) Shall not apply to employees who are stationed in either the Canal Zone or in any "foreign area" as defined in 5 U.S.C. 5921(6) [par. (6) of this section].

(c) Shall be limited to employees whose rates of basic compensation are fixed in conformity with rates paid by the Government for work of a comparable level of difficulty and responsibility to employees stationed in the continental United States, exclusive of Alaska.

(d) Shall not, with respect to any locality, authorize allowances which exceed those prescribed under Executive Order No. 10000 of September 16, 1948, as amended, for other employees of the United States in the same locality.

Part III—General Provisions

Sec. 301. All actions heretofore taken by the President or his delegate with respect to the matters affected by this order, and in effect at the time of the issuance of this order, including any regulations prescribed or approved by the President or his delegate with respect to such matters, shall, except as they are inconsistent with the provisions of this order, remain in effect until amended, modified, or revoked pursuant to appropriate authority.

Sec. 302. This order, and the regulations prescribed or approved under the authority thereof, shall be published in the Federal Register.

Section Referred to in Other Sections

This section is referred to in section 5924 of this title.

§ 5922. General provisions

(a) Notwithstanding section 5536 of this title and except as otherwise provided by this subchapter, the allowances and differentials authorized by this subchapter may be granted to an employee officially stationed in a foreign area—

(1) who is a citizen of the United States; and

(2) whose rate of basic pay is fixed by statute or, without taking into consideration the allowances and differentials provided by this subchapter, is fixed by administrative action pursuant to law or is fixed administratively in conformity with rates paid by the Government for work of a comparable level of difficulty and responsibility in the continental United States.

To the extent authorized by a provision of statute other than this subchapter, the allowances and differentials provided by this subchapter may be paid to an employee officially stationed in a foreign area who is not a citizen of the United States.

(b) Allowances granted under this subchapter may be paid in advance, or advance of funds may be made therefor, through the proper disbursing official in such sums as are considered advisable in consideration of the need and the period of time during which expenditures must be made in advance by the employee. An advance of funds not subsequently covered by allowances accrued to the employee under this subchapter is recoverable by the Government by—

(1) setoff against accrued pay, compensation, amount of retirement credit, or other amount due the employee from the Government; and

(2) such other method as is provided by law for the recovery of amounts owing to the Government. The head of the agency concerned, under regulations of the President, may waive in whole or in part a right of recovery under this subsection, if it is shown that the recovery would be against equity and good conscience or against the public interest.

(c) The allowances and differentials authorized by this subchapter shall be paid under regulations prescribed by the President governing—

(1) payments of the allowances and differentials and the respective rates at which the payments are made;

(2) the foreign areas, the groups of positions, and the categories of employees to which the rates apply; and

(3) other related matters.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 510.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
(a)	5 U.S.C. 3033	Sept. 6, 1960, Pub. L. 86-707, § 201, 74 Stat. 793.
(b)	5 U.S.C. 3034	Sept. 6, 1960, Pub. L. 86-707, § 202, 74 Stat. 793.
(c)	5 U.S.C. 3035	Sept. 6, 1960, Pub. L. 86-707, § 203, 74 Stat. 793.

In subsection (a), the word "only" is omitted as surplusage.

In subsection (b), the words "disbursing official" are substituted for "disbursing officer" because of the definition of "officer" in section 2104 which excludes a member of a uniformed service.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

DELEGATION OF FUNCTIONS

Secretary of State empowered to prescribe regulations, see section 1(b) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 26 section 912.

§ 5923. Quarters allowances

When Government owned or rented quarters are not provided without charge for an employee in a foreign area, one or more of the following quarters allowances may be granted when applicable:

(1) A temporary lodging allowance for the reasonable cost of temporary quarters incurred by the employee and his family—

(A) for a period not in excess of 3 months after first arrival at a new post of assignment in a foreign area or a period ending with the occupation of residence quarters, whichever is shorter; and

(B) for a period of not more than 1 month immediately before final departure from the post after the necessary evacuation of residence quarters.

(2) A living quarters allowance for rent, heat, light, fuel, gas, electricity, and water, without regard to section 529 of title 31.

(3) Under unusual circumstances, payment or reimbursement for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred in initial repairs, alterations, and improvements to the privately leased residence of an employee at a post of assignment in a foreign area, if—

(A) the expenses are administratively approved in advance; and

(B) the duration and terms of the lease justify payment of the expenses by the Government.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 511.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 3036	Sept. 6, 1960, Pub. L. 86-707, § 211, 74 Stat. 793.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2506; title 26 section 912.

§ 5924. Cost-of-living allowances

The following cost-of-living allowances may be granted, when applicable, to an employee in a foreign area:

(1) A post allowance to offset the difference between the cost of living at the post of assignment of the employee in a foreign area and the cost of living in the District of Columbia.

(2) A transfer allowance for extraordinary, necessary, and reasonable expenses, not otherwise compensated for, incurred by an employee incident to establishing himself at a post of assignment in—

(A) a foreign area (including costs incurred in the United States prior to departure for a post of assignment in a foreign area); or

(B) the United States between assignments to posts in foreign areas.

(3) A separate maintenance allowance to assist an employee who is compelled, because of dangerous, notably unhealthful, or excessively adverse living conditions at the employee's post of assignment in a foreign area, or for the convenience of the Government, to meet the additional expenses of maintaining, elsewhere than at the post, the employee's spouse or dependents, or both.

(4) An education allowance or payment of travel costs to assist an employee with the extraordinary and necessary expenses, not otherwise compensated for, incurred because of his service in a foreign area or foreign areas in providing adequate education for his dependents, as follows:

(A) An allowance not to exceed the cost of obtaining such kindergarten, elementary and secondary educational services as are ordinarily provided without charge by the public schools in the United States, plus, in those cases when adequate schools are not available at the post of the employee, board and room, and periodic transportation between that post and the nearest locality where adequate schools are available, without regard to section 529 of title 31. The amount of the allowance granted shall be determined on the basis of the educational facility used.

(B) The travel expenses of dependents of an employee to and from a school in the United States to obtain an American secondary or undergraduate college education, not to exceed one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or one trip each way for each dependent of any other employee, for the purpose of obtaining each type of education. An allowance payment under subparagraph (A) of this paragraph (4) may not be made for a dependent during the 12 months following his arrival in the United States for secondary education under authority contained in this subparagraph (B). Notwithstanding section 5921(6) of this title, travel expenses, for the purpose of obtaining undergraduate college education, may be authorized under this subparagraph (B), under such regulations as the President may prescribe, for dependents of employees who are citizens of the United States stationed in the Canal Zone.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 511; Pub. L. 92-187, § 2, Dec. 15, 1971, 85 Stat. 644; Pub. L. 93-126, § 12, Oct. 18, 1973, 87 Stat. 454; Pub. L. 93-475, § 13, Oct. 26, 1974, 88 Stat. 1443; Pub. L. 94-141, title IV, § 405, Nov. 29, 1975, 89 Stat. 770.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3037	Sept. 6, 1960, Pub. L. 86-707, § 221, 74 Stat. 794.

In paragraph (1), the word "Washington" is omitted as covered by "District of Columbia".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Par. (2)(A). Pub. L. 94-141 expanded applicability to include costs incurred in the United States prior to departure for a post of assignment in a foreign area.

1974—Par. (4)(B). Pub. L. 93-475 substituted "one annual trip each way for each dependent of an employee of the Department of State or the United States Information Agency, or one trip each way for each dependent of any other employee," for "one trip each way for each dependent".

1973—Par. (4)(A). Pub. L. 93-126 inserted "kindergarten," preceding "elementary".

1971—Par. (3). Pub. L. 92-187 substituted "the employee's post" for "his post" and "the employee's spouse or" for "his wife or his".

DELEGATION OF FUNCTIONS

Secretary of State empowered to prescribe regulations governing travel expenses for dependents of certain employees, see section 1(b) of Ex. Ord. No. 10903, Jan. 11, 1961, 26 F.R. 217, set out as a note under section 5921 of this title.

CROSS REFERENCES

Employee entitled to cost-of-living allowance under this section ineligible for allowance under subsec. (a) of this section based on living costs substantially higher than in District of Columbia, see section 5941 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5941 of this title; title 22 section 2506; title 26 section 912.

§ 5925. Post differentials

A post differential may be granted on the basis of conditions of environment which differ substantially from conditions of environment in the continental United States and warrant additional pay as a recruitment and retention incentive. A post differential may be granted to an employee officially stationed in the United States who is on extended detail in a foreign area. A post differential may not exceed 25 percent of the rate of basic pay.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 512.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3038	Sept. 6, 1960, Pub. L. 86-707, § 231, 74 Stat. 795.

In the last sentence, the words "Additional compensation paid as" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 2506; title 26 section 912.

SUBCHAPTER IV—MISCELLANEOUS ALLOWANCES

§ 5941. Allowances based on living costs and conditions of environment; employees stationed outside continental United States or in Alaska

(a) Appropriations or funds available to an Executive agency, except a Government controlled corporation, for pay of employees stationed outside the continental United States or in Alaska whose rates of basic pay are fixed by statute, are available for allowances to these employees. The allowance is based on—

(1) living costs substantially higher than in the District of Columbia;

(2) conditions of environment which differ substantially from conditions of environment in the continental United States and warrant an allowance as a recruitment incentive; or

(3) both of these factors.

The allowance may not exceed 25 percent of the rate of basic pay. Except as otherwise specifically authorized by statute, the allowance is paid only in accordance with regulations prescribed by the President establishing the rates and defining the area, groups of positions, and classes of employees to which each rate applies.

(b) An employee entitled to a cost-of-living allowance under section 5924 of this title may not be paid an allowance under subsection (a) of this section based on living costs substantially higher than in the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 512.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118h	Apr. 20, 1948, ch. 219, § 207, 62 Stat. 194. June 30, 1948, ch. 775, § 104, 62 Stat. 1205.

The section is reorganized and restated for clarity and conciseness.

The word "allowances" is substituted for "additional compensation" as a more apt term and for consistency.

In subsection (a), the words "Executive agency" are substituted for "executive departments, independent establishments, and wholly owned Government corporations" in view of the definition of "Executive agency" in section 105. The exception of a "Government controlled corporation" is added to preserve the application to "wholly owned Government corporation".

Subsection (b) is based on the second proviso of former section 118h and is restated to reflect the provisions of sections 511(b), (c)(7) and 521 of the Act of Sept. 6, 1960, Pub. L. 86-707, 74 Stat. 800-802. The reference to section 204 of the Act of Apr. 20, 1948, is omitted as obsolete, since the section was applicable only to fiscal year 1949.

The last proviso of former section 118h which provided the effective date of the section is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Ex. Ord. No. 10000. Regulations Governing Additional Compensation and Credit Granted Certain Federal Employees Serving Outside the United States

Ex. Ord. No. 10000, Sept. 16, 1948, 13 F.R. 5453, as amended by Ex. Ord. No. 10636, Sept. 16, 1955, 20 F.R. 7025; Ex. Ord. No. 11938, Sept. 29, 1976, 41 F.R. 43383, provided:

By virtue of the authority vested in me by section 207 of the Independent Offices Appropriation Act, 1949, approved April 20, 1948 (Public Law 491, 80th Congress), as amended by section 104 of the Supplemental Independent Offices Appropriation Act, 1949, approved June 30, 1948 (Public Law 862, 80th Congress), and by sections 303, 443, and 853 of the Foreign Service Act of 1946 (60 Stat. 1002, 1006, 1024), and as President of the United States, I hereby prescribe the following regulations (1) governing the payment of additional compensation to personnel of the United States employed outside the continental United States or in Alaska, under the provisions of the said section 207, as amended, (2) governing the payment of salary differentials to Foreign Service staff officers and employees serving at certain posts, pursuant to the said section 443, and (3) relating to unhealthful foreign posts, pursuant to the said section 853:

Part I—Additional Compensation in Foreign Areas

Section 101. Definitions. As used in this Part, (a) the words "foreign areas" mean all areas exclusive of (1) the forty-eight states of the United States, (2) the District of Columbia, and (3) Territories as defined in section 201 of this order, and (b) the words "section 207 of the Act" mean section 207 of the Independent Offices Appropriation Act, 1949, approved April 20, 1948, Public Law 491, 80th Congress, as amended by section 104 of the Supplemental Independent Offices Appropriation Act, 1949, approved June 30, 1948, Public Law 862, 80th Congress.

Sec. 102. Additional Compensation by Reason of Environment. The Secretary of State shall from time to time, subject to applicable law, (a) designate places in foreign areas having conditions of environment which differ substantially from conditions of environment in the United States and warrant additional compensation as a recruitment incentive, (b) fix for each such place the additional rate or rates of compensation to be paid by reason of such environment pursuant to section 207 of the Act, after giving due consideration to the degree of environmental difference, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as "foreign post differential."

Sec. 103. Basis for Foreign Post Differential. The Secretary of State may establish a foreign post differential for any place when, and only when, the place involves any one or more of the following: (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions.

Sec. 104. Agencies Covered. Subject to the provisions of section 207 of the Act and of this Part, every executive department, independent establishment, and wholly owned Government corporation shall pay a foreign post differential fixed under section 102 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that differential has been fixed.

Sec. 105. Persons Eligible to Receive Foreign Post Differential. (a) In order that an employee be eligible to receive a foreign post differential under this Part, (1) he shall be a citizen or national of the United States, (2) his residence in the place to which the foreign post differential applies, at the time of receipt thereof, shall be fairly attributable to his employment by the United States, and (3) his residence at such place over an appropriate prior period of time must not be fairly attributable to reasons other than employment by the United States or by United States firms, interests, or organizations.

(b) Subject to the provisions of section 105(a) hereof, the classes of persons eligible to receive the foreign post differentials fixed pursuant to section 102 hereof shall include:

(1) Persons recruited or transferred from the United States.

(2) Persons employed locally but (a) who were originally recruited from the United States and have been in substantially continuous employment by other Federal agencies, United States firms, interests, or organizations, international organizations in which the United States Government participates, or foreign governments, and whose conditions of employment provide for their return transportation to the United States, or (b) who were at the time of employment temporarily absent from the United States for purposes of travel or formal study and maintained residence in the United States during such temporary absence. When used in a geographical sense in section 105(b) hereof, "United States" includes the areas included within the definition of Territories as set forth in section 201 hereof.

(3) Persons who are not normally residents of the area concerned and who are discharged from the military service of the United States in such area to accept employment therein with an agency of the Federal Government.

Sec. 106. Payment of Foreign Post Differentials. (a) The following regulations shall govern the payment of foreign post differentials under this Part:

(1) Payments shall begin as of the date of arrival at the post on assignment or transfer and shall end as of the date of departure from the post for separation or transfer, except that in case of local recruitment such payments shall begin and end as of the beginning and the end of employment, respectively.

(2) Payments for periods of leave and of detail shall begin and end as determined in regulations prescribed under section 102(c) hereof.

(3) Payments to persons serving on a part-time basis shall be pro-rated to cover only those periods of time for which such persons receive basic compensation.

(4) Payment shall not be made for any time for which an employee does not receive basic compensation.

Sec. 107. Persons Serving Under Contract. Any other provision of this Part notwithstanding, any person who would otherwise be eligible to receive a foreign post differential under this Part shall, if he is serving under contract, be compensated according to the terms of such contract for the period thereof and shall, during such period, be ineligible to receive a foreign post differential.

Sec. 108. Periodic Review. The Secretary of State shall periodically, but at least annually, review the places designated, the rates fixed, and the regulations prescribed pursuant to section 102 hereof, with a view to making such changes therein as will insure that the payment of additional compensation under the provisions of this Part shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified.

Sec. 109. Additional Living Cost Compensation. No executive department, independent establishment, or wholly owned Government corporation shall pay, pursuant to section 207 of the Act, additional compensation to any employee located in any foreign area by reason of living costs which are substantially higher than those in the District of Columbia: *Provided,* That this section shall not be construed to prevent any payment, under section 204 of said Independent Offices Appropriation Act, 1949, or under other appropriate authority.

Part II—Additional Compensation in Territories

Sec. 201. Definition. As used in this Part, (a) the word "Territories" means Alaska, Hawaii, the possessions of the United States, the Trust Territory of the Pacific Islands, and such additional areas located outside the continental United States as the Secretary of State shall designate as being within the scope of the provisions of this Part, and (b) the words "section 207 of the Act" have the meaning set forth in section 101 hereof.

Sec. 202. Additional Compensation by Reason of Environment. The United States Civil Service Commission shall from time to time, subject to applicable law, (a) designate places in Territories having conditions of environment which differ substantially from conditions of environment in the United States and warrant additional compensation as a recruitment incentive, (b) fix for each such place the additional rate or rates of compensation to be paid by reason of such environment pursuant to section 207 of the Act, after giving due consideration to the degree of environmental difference, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as "Territorial post differential."

Sec. 203. Basis For Territorial Post Differential. The Civil Service Commission may establish a Territorial post differential for any place in the Territories when, and only when, the place involves any one or more of the following: (a) extraordinarily difficult living conditions, (b) excessive physical hardship, or (c) notably unhealthful conditions.

Sec. 204. Persons Eligible to Receive Territorial Post Differential. (a) In order that an employee be eligible to receive a Territorial post differential under this Part, (1) he shall be a citizen or national of the United States, (2) his residence in the place to which the Territorial post differential applies, at the time of receipt thereof, shall be fairly attributable to his employment by the United States, and (3) his residence at such place over an appropriate prior period of time must not be fairly attributable to reasons other than employment by the United States or by United States firms, interests, or organizations.

(b) Subject to the provisions of section 204(a) hereof, the classes of persons eligible to receive the Territorial post differentials fixed pursuant to section 202 hereof shall include:

(1) Persons recruited or transferred from outside the area concerned.

(2) Persons employed in the area concerned but (a) who were originally recruited from outside such area and have been in substantially continuous employment by other Federal agencies, contractors of Federal agencies, or international organizations in which the U. S. Government participates, and whose conditions of employment provide for their return transportation to places outside the area concerned, or (b) who were at the time of employment temporarily present in the area concerned for purposes of travel or formal study and maintained residence outside such area during the period so present.

(3) Persons who are not normally residents of the area concerned and who are discharged from the military service of the United States in such area to accept employment therein with an agency of the Federal Government.

Sec. 205. Additional Living Cost Compensation. (a) The United States Civil Service Commission shall from time to time, subject to applicable law, (1) designate places in the Territories where it determines that living costs are substantially higher than in the District of Columbia, (2) fix for each place so designated an additional rate or rates of compensation to be paid by reason of such higher living costs pursuant to section 207 of the Act, and (c) prescribe such further regulations, governing such compensation, as may be necessary. Additional compensation so fixed is hereafter in this Part referred to as "Territorial cost-of-living allowance."

(b) The Civil Service Commission shall, (1) in designating places under section 205(a) hereof, consider the relative consumer price levels in the area and in the District of Columbia, and give due consideration to the differences in goods and services available and to the manner of living of persons employed in the areas concerned in positions comparable to those of the United States employees in the areas, and (2) in fixing the Territorial cost-of-living allowance pursuant to such subsection, make appropriate deductions when quarters or subsistence, commissary or other purchasing privileges are furnished at a cost substantially lower than the prevailing local cost.

Sec. 206. Coordination. The Civil Service Commission shall define the extent to which and the conditions under which an employee serving within the Territories may receive both a Territorial post differential and a Territorial cost-of-living allowance, pursuant to section 207 of the Act. In carrying out its functions under this Part the Commission may take due notice if any special allowances, other than under section 207 of the act, granted to personnel employed by the United States in Territories.

Sec. 207. Agencies Covered. Subject to the provisions of section 207 of the Act and of this Part, every Executive department, independent establishment, and wholly owned Government corporation shall pay (a) a Territorial post differential fixed under section 202 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that differential has been fixed, and (b) a Territorial cost-of-living allowance fixed under section 205 hereof to each of its employees whose basic compensation is fixed by statute and who is located at the post for which that allowance has been fixed.

Sec. 208. Payment of Territorial Post Differentials And Cost-of-Living Allowances.

(a) The following regulations shall govern the payment of Territorial post differentials and Territorial cost-of-living allowances under this Part:

(1) Payments shall begin as of the date of arrival at the post on assignment or transfer and shall end as of the date of departure from the post for separation or transfer, except that in case of local recruitment such payments shall begin and end as of the beginning and end of employment, respectively.

(2) Payments for periods of leave and of detail shall begin and end as determined in regulations prescribed under section 202(c) hereof.

(3) Payments to persons serving on a part-time basis shall be prorated to cover only those periods of time for which such persons receive basic compensation.

(4) Payment shall not be made for any time for which an employee does not receive basic compensation.

Sec. 209. Persons Serving Under Contract. Any other provision of this Part notwithstanding, any person who would otherwise be eligible to receive a Territorial post differential or a Territorial cost-of-living allowance under this Part shall, if he is serving under a contract, be compensated according to the terms of such contract for the period thereof and shall, during such period, be ineligible to receive said differential and allowance.

Sec. 210. Periodic Review. The Civil Service Commission shall periodically, but at least annually, review the places designated, the rates fixed, and the regulations prescribed pursuant to this Part, with a view to making such changes therein as will insure that payment of additional compensation under the provisions of this Part shall continue only during the continuance of conditions justifying such payment and shall not in any instance exceed the amount justified: *Provided,* That if program or methodology revisions would substantially reduce an established differential or allowance rate, then the rate of such additional compensation may be reduced gradually.

Part III—Interim Arrangements

Sec. 301. Temporary Regulations. During the period commencing with the date of this order or the effective date of section 207 of the Act (as defined in section 101 hereof), whichever shall occur earlier, and ending on a date or dates fixed by the Secretary of State and the Civil Service Commission, respectively, as the effective dates of the designation of places and of the fixing of additional rates of compensation, under Parts I and II of this order, but in no event later than January 1, 1949, and notwithstanding the provisions of Parts I and II of this order, the payment of salaries and compensation (including the payment of additional compensation) of persons subject to the provisions of said section 207 shall be governed by the regulations and practices in effect in the respective Executive departments, independent establishments, and wholly owned government corporations immediately prior to April 20, 1948. Executive Order No. 9962 of May 24, 1948 is hereby revoked.

PART IV—FOREIGN SERVICE SALARY DIFFERENTIALS

[Part IV relating to Foreign Service salary differentials terminated June 30, 1951, pursuant to section 404 of this Executive Order.]

PART V—UNHEALTHFUL POSTS

[Part V relating to Unhealthful Posts terminated June 30, 1951, pursuant to section 503 of this Executive Order.]

PART VI—GENERAL PROVISIONS

SEC. 601. PUBLICATION. This order, and the places designated, the rates fixed, and the regulations prescribed by the Secretary of State and the Civil Service Commission pursuant to Parts I and II of this order, shall be published in the Federal Register.

HARRY S. TRUMAN.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 20 section 906; title 22 section 2506; title 31 section 1225; title 39 section 1005.

§ 5942. Allowance based on duty at remote worksites

Notwithstanding section 5536 of this title, an employee of an Executive department or an independent establishment who is assigned to duty, except temporary duty, at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable degree of expense, hardship, and inconvenience, beyond that normally encountered in metropolitan commuting, on the part of the employee in commuting to and from his residence and such worksite, is entitled, in addition to pay otherwise due him, to an allowance of not to exceed $10 a day. The allowance shall be paid under regulations prescribed by the President establishing the rates at which the allowance will be paid and defining and designating those sites, areas, and groups of positions to which the rates apply.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 513; Pub. L. 90-83, § 1(41), Sept. 11, 1967, 81 Stat. 207; Pub. L. 91-656, § 6(a), Jan. 8, 1971, 84 Stat. 1953.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 70c	Aug. 31, 1964, Pub. L. 88-538, § 1, 78 Stat. 745.

The words "of the United States" are omitted as unnecessary because of the definition of "employee" in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
5942	5 App.: 70c	Mar. 31, 1966, Pub. L. 89-383, § 1, 80 Stat. 98.

AMENDMENTS

1971—Pub. L. 91-656 substituted "duty at remote worksites" for "duty on California offshore islands or at Nevada Test Site" in the section catchline and assignment to duty "at a site so remote from the nearest established communities or suitable places of residence as to require an appreciable degree of expense, hardship, and inconvenience, beyond that normally encountered in metropolitan commuting, on the part of the employee in commuting to and from his residence and such worksite" for assignment to duty "on one of the California offshore islands or at the United States Atomic Energy Commission Nevada Test Site, including the Nuclear Rocket Development Station", inserted reference to employee "of an Executive department or an independent establishment" and provision for designation by regulation of sites to which the rates apply.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 6(b) of Pub. L. 91-656 provided that:

"Notwithstanding section 5536 of title 5, United States Code, and the amendment made by subsection (a) of this section [to this section], and until the effective date of regulations prescribed by the President under such amendment [to this section]—

"(1) allowances may be paid to employees under section 5942 of title 5, United States Code [this section], and the regulations prescribed by the President under such section [this section], as in effect immediately prior to the effective date of this section [Jan. 8, 1971]; and

"(2) such regulations may be amended or revoked in accordance with such section 5942 as in effect immediately prior to the effective date of this section [Jan. 8, 1971]."

DELEGATION OF FUNCTIONS

Authority of the President under this section to prescribe regulations establishing rates at which an allowance based on duty (except temporary duty) at remote worksites will be paid and defining and designating the sites, areas, and groups of positions to which the rates apply delegated to the United States Civil Service Commission, see section 8(3) of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5943. Foreign currency appreciation allowances

(a) The President, under such regulations as he may prescribe and on recommendation of the Director of the Bureau of the Budget, may meet losses sustained by employees and members of the uniformed services while serving in a foreign country due to the appreciation of foreign currency in its relation to the American dollar. Allowances and expenditures under this section are not subject to income taxes.

(b) Annual appropriations are authorized to carry out subsection (a) of this section and to cover any deficiency in the accounts of the Secretary of the Treasury, including interest, arising out of the arrangement approved by the President on July 27, 1933, for the conversion into foreign currency of checks and drafts of employees and members of the uniformed services for pay and expenses.

(c) Payment under subsection (a) of this section may not be made to an employee or member of a uniformed service for a period during which his check or draft was converted into foreign currency under the arrangement referred to by subsection (b) of this section.

(d) The Director of the Bureau of the Budget shall report annually to Congress all expenditures made under this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 513.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118c	Mar. 26, 1934, ch. 87, 48 Stat. 466. Aug. 14, 1937, ch. 627, 50 Stat. 641. Sept. 12, 1950, ch. 946, § 301 (87), 64 Stat. 843.

The section is reorganized and restated for clarity and conciseness.

In subsection (a), the words "notwithstanding the provisions of any other Act" are omitted as unnecessary. The words "Secretary of the Treasury" are substituted for "Treasurer of the United States" on authority of 1950 Reorg. Plan No. 26 §§ 1, 2, eff. July 31, 1950, 64 Stat. 1280. The words "Provided, That such action as the President may take shall be binding upon all executive officers of the Government" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Transfer of Functions

All functions vested by law (including reorganization) plan in the Bureau of the Budget or the Director of the Bureau of the Budget were transferred to the President of the United States by section 101 of 1970 Reorg. Plan No. 2, eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085, set out in the Appendix to this title. Section 102 of 1970 Reorg. Plan No. 2, redesignated the Bureau of the Budget as the Office of Management and Budget.

Delegation of Functions

Authority of the President under subsec. (a) of this section to make recommendations concerning the meeting of losses sustained by employees and members of the uniformed services while serving in a foreign country due to appreciation of foreign currency in its relation to the American dollar and under subsec. (d) of this section to report annually to the Congress on expenditures made under subsec. (d) of this section, delegated to the Secretary of the Treasury, see section 2 of Ex. Ord. No. 11609, July 22, 1971, 36 F.R. 13747, set out as a note under section 301 of Title 3, The President.

§ 5944. Illness and burial expenses; native employees in foreign countries

(a) The head of an Executive department or military department which maintains a permanent staff of employees in foreign countries may pay the burial expenses and expenses in connection with the last illness and death of a native employee of his department in a country in which the Secretary of State determines it is customary for employers to pay these expenses. Payment of these expenses may not exceed $100 in any one case.

(b) The head of an Executive department or military department which maintains a permanent staff of employees in foreign countries in which the custom referred to by subsection (a) of this section does not exist, on finding that the immediate family of the deceased is destitute, may pay such of the expenses referred to by subsection (a) of this section within the limitations in that subsection to the family, heirs at law, or persons responsible for the debts of the deceased, as the employee in charge of the office abroad in which the deceased was employed consider proper.

(c) Payments under this section are made from appropriations available to the department concerned for miscellaneous or contingent expenses.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 513.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118f	July 15, 1939, ch. 286, 53 Stat. 1943.

The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military department, not as Executive departments. However, the source law for this section, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301,

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Transportation of remains, dependents and effects of employees dying abroad or away from official station, see section 5742 of this title.

§ 5945. Notary public commission expenses

An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia who is required to serve as a notary public in connection with the performance of official business is entitled to an allowance, established by the agency concerned, not in excess of the expense required to obtain the commission. Funds available to an agency concerned for personal services or general administrative expenses are available to carry out this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 514.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 70a	July 11, 1956, ch. 554, § 1, 70 Stat. 519.
....	5 U.S.C. 70b	July 11, 1956, ch. 554, § 2, 70 Stat. 520.

In the first sentence, the words "to be incurred by them in order" are omitted as surplusage. The words "from and after January 1, 1955" are omitted as obsolete.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 5946. Membership fees; expenses of attendance at meetings; limitations

Except as authorized by a specific appropriation, by express terms in a general appropriation, or by sections 4109 and 4110 of this title, appropriated funds may not be used for payment of—

(1) membership fees or dues of an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia in a society or association; or

(2) expenses of attendance of an individual at meetings or conventions of members of a society or association.

This section does not prevent the use of appropriations for the Department of Agriculture for expenses incident to the delivery of lectures, the giving of instructions, or the acquiring of information at meetings by its employees on subjects relating to the authorized work of the Department.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 514.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 83	June 26, 1912, ch. 182, § 8, 37 Stat. 184. Mar. 4, 1913, ch. 145 (3d full par. on p. 854), 37 Stat. 854.

The words "or by sections 4109 and 4110 of this title" are added on authority of former sections 2309 and 2318(b), which are carried into sections 4109 and 4110, respectively.

In the last sentence, the words "This section does not" are substituted for "That nothing contained in the Act making appropriations to provide for the expenses of the Government of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and thirteen, and for other purposes, approved June twenty-sixth, nineteen hundred and twelve, shall be so construed as to" appearing in the Act of Mar. 4, 1913, 37 Stat. 854.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Payment of expenses of government employees incident to attendance at meetings, see section 4110 of this title.

§ 5947. Quarters, subsistence, and allowances for employees of the Corps of Engineers, Department of the Army, engaged in floating plant operations

(a) An employee of the Corps of Engineers, Department of the Army, engaged in floating plant operations may be furnished quarters or subsistence, or both, on vessels, without charge, when the furnishing of the quarters or subsistence, or both, is determined to be equitable to the employee concerned, and necessary in the public interest, in connection with such operations.

(b) Notwithstanding section 5536 of this title, an employee entitled to the benefits of subsection (a) of this section while on a vessel, may be paid, in place of these benefits, an allowance for quarters or subsistence, or both, when—

(1) adverse weather conditions or similar circumstances beyond the control of the employee or the Corps of Engineers prevent transportation of the employee from shore to the vessel; or

(2) quarters or subsistence, or both, are not available on the vessel while it is undergoing repairs.

(c) The quarters or subsistence, or both, or allowance in place thereof, may be furnished or paid only under regulations prescribed by the Secretary of the Army.

(Added Pub. L. 91-656, § 7(a), Jan. 8, 1971, 84 Stat. 1954.)

Subpart E—Attendance and Leave

CHAPTER 61—HOURS OF WORK

Sec.
6101. Basic 40-hour workweek; work schedules; regulations.
[6102. Repealed.]
6103. Holidays.
6104. Holidays; daily, hourly, and piece-work basis employees.
6105. Closing of Executive departments.
6106. Time clocks; restrictions.

Amendments

1972—Pub. L. 92-392, § 7(b), Aug. 19, 1972, 86 Stat. 573, struck out item "6102. Eight-hour day; 40-hour work week; wage-board employees.".

§ 6101. Basic 40-hour workweek; work schedules; regulations

(a)(1) For the purpose of this subsection, "employee" includes an employee of the government of the District of Columbia and an employee whose pay is fixed and adjusted from time to time under section 5343 or 5349 of this title, or by a wage board or similar administrative authority serving the same purpose, but does not include an employee or individual excluded from the definition of employee in section 5541(2) of this title, except as specifically provided under this paragraph.

(2) The head of each Executive agency, military department, and of the government of the District of Columbia shall—

(A) establish a basic administrative workweek of 40 hours for each full-time employee in his organization; and

(B) require that the hours of work within that workweek be performed within a period of not more than 6 of any 7 consecutive days.

(3) Except when the head of an Executive agency, a military department, or of the government of the District of Columbia determines that his organization would be seriously handicapped in carrying out its functions or that costs would be substantially increased, he shall provide, with respect to each employee in his organization, that—

(A) assignments to tours of duty are scheduled in advance over periods of not less than 1 week

(B) the basic 40-hour workweek is scheduled on 5 days, Monday through Friday when possible, and the 2 days outside the basic workweek are consecutive;

(C) the working hours in each day in the basic workweek are the same;

(D) the basic nonovertime workday may not exceed 8 hours;

(E) the occurrence of holidays may not affect the designation of the basic workweek; and

(F) breaks in working hours of more than 1 hour may not be scheduled in a basic workday.

(4) Notwithstanding paragraph (3) of this subsection, the head of an Executive agency, a military department, or of the government of the District of Columbia may establish special tours of duty, of not less than 40 hours, to enable employees to take courses in nearby colleges, universities, or other educational institutions that will equip them for more effective work in the agency. Premium pay may not be paid to an employee solely because his special tour of duty established under this paragraph results in his working on a day or at a time of day for which premium pay is otherwise authorized.

(5) The Architect of the Capitol may apply this subsection to employees under the Office of the Architect of the Capitol or the Botanic Garden. The Librarian of Congress may apply this subsection to employees under the Library of Congress.

(b)(1) For the purpose of this subsection, "agency" and "employee" have the meanings given them by section 5541 of this title.

(2) To the maximum extent practicable, the head of an agency shall schedule the time to be spent by an employee in a travel status away from his official duty station within the regularly scheduled workweek of the employee.

(c) The Civil Service Commission may prescribe regulations, subject to the approval of the President, necessary for the administration of this section insofar as this section affects employees in or under an Executive agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 514; Pub. L. 90-83, § 1(43), Sept. 11, 1967, 81 Stat. 207; Pub. L. 92-392, § 6, Aug. 19, 1972, 86 Stat. 573; Pub. L. 94-183, § 2(25), Dec. 31, 1975, 89 Stat. 1058.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 944(a)	June 30, 1945, ch. 212, § 604(a), 59 Stat. 303. Sept. 1, 1954, ch. 1208, § 210, 68 Stat. 1112.
(c)	5 U.S.C. 944(d) (less last 27 words).	June 30, 1945, ch. 212, § 604(e) (less last 27 words), 59 Stat. 304.

In subsection (a), the words "in the departmental and the field services" are omitted as unnecessary.

In subsections (a) and (b), the words "an Executive agency, a military department" are coextensive with and substituted for "the several departments and independent establishments and agencies in the executive branch, including Government-owned or controlled corporations" and "such department, establishment, or agency" in view of the definitions in sections 105 and 102. The words "a military department" are included to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this section which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Subsection (d) is added on authority of former sections 901(d) and 2358(a) (as applicable to the Federal Employees Pay Act of 1945, as amended) which are carried into section 5541, and to include individuals employed by the government of the District of Columbia as they are not included in the definition of "employee" in section 2105.

Subsection (e) is added on authority of former section 945, which is carried into section 5548. The words "an Executive agency" are substituted for "the executive branch of the Government" to conform to the definition in section 105. Applicability of this section to employees of the General Accounting Office is based on former section 933a.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
6101(a) (1)-(3), (5)	5:6101(a)-(d)	[None.]
6101(a)(4)	5 App.: 944 (a) (3)	June 29, 1966, Pub. L. 89-478, 80 Stat. 231.
6101(b)	5 App.: 912b (last sentence)	Oct. 29, 1965, Pub. L. 89-301, § 16, 79 Stat. 1123.
6101(c)	5:6101(e)	[None.]

In subsection (a)(4), the words "without regard to the requirements of such paragraph" are omitted as redundant in view of the words "notwithstanding paragraph (3) of this subsection" at the beginning thereof. The words "an Executive agency, a military department" are coextensive with and substituted for "each such department, establishment, or agency" and to conform to subsections (a)(2) and (a)(3). The words "officers" and "officer" are omitted as included in "employees" and "employee". The word "pay" is substituted for "compensation" to conform to the style of title 5, United States Code.

Subsection (b)(1) is added on authority of former sections 901 and 902 of title 5, which are now codified in 5 U.S.C. 5541.

In subsection (b)(2), the words "head of an agency" are substituted for "head of any department, independent establishment, or agency, including Government-owned or controlled corporations, or of the municipal government of the District of Columbia, or the head of any legislative or judicial agency to which this title applies" to conform to the definition of "agency" in 5 U.S.C. 5541, which is made applicable to this subsection by subsection (b)(1). The word "officer" is omitted as included in "employee".

AMENDMENTS

1975—Subsec. (a)(4). Pub. L. 94-183 substituted "educational" for "education".

1972—Subsec. (a)(1). Pub. L. 92-392 defined "employee" to include an employee whose pay is fixed and adjusted from time to time under section 5343 or 5349 of this title or by a wage board or similar administrative authority serving the same purpose and exclude certain employees "except as specifically provided under this paragraph".

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub.

L. 92-392, set out as a note under section 5341 of this title.

PERFORMANCE OF FUNCTIONS

Functions vested in Civil Service Commission under this section insofar as it affects officers and employees in or under the executive branch of the government to be performed without approval of President, see section 1(1) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

CROSS REFERENCES

Contract Work Hours Standards Act, see section 327 et seq. of Title 40, Public Buildings, Property, and Works.

Overtime and other premium pay, see section 5541 et seq. of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5504 of this title; title 40 sections 166b-1d, 166b-1e.

[§ 6102. Repealed. Pub. L. 92-392, § 7(a), Aug. 19, 1972, 86 Stat. 573.]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 515, provided for eight-hour day and 40-hour workweek for wage-board employees and is now covered by sections 5544(a) and 6101(a)(1) of this title.

EFFECTIVE DATE OF REPEAL

Section repealed effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

§ 6103. Holidays

(a) The following are legal public holidays:

New Year's Day, January 1.

Washington's Birthday, the third Monday in February.

Memorial Day, the last Monday in May.

Independence Day, July 4.

Labor Day, the first Monday in September.

Columbus Day, the second Monday in October.

Veterans Day, the fourth Monday in October.

Thanksgiving Day, the fourth Thursday in November.

Christmas Day, December 25.

(b) For the purpose of statutes relating to pay and leave of employees, with respect to a legal public holiday and any other day declared to be a holiday by Federal statute or Executive order, the following rules apply:

(1) Instead of a holiday that occurs on a Saturday, the Friday immediately before is a legal holiday for—

(A) employees whose basic workweek is Monday through Friday; and

(B) the purpose of section 6309 of this title.

(2) Instead of a holiday that occurs on a regular weekly non-workday of an employee whose basic workweek is other than Monday through Friday, except the regular weekly non-workday administratively scheduled for the employee instead of Sunday, the workday immediately before that regular weekly non-workday is a legal public holiday for the employee.

This subsection, except subparagraph (B) of paragraph (1), does not apply to an employee whose basic workweek is Monday through Saturday.

(c) January 20 of each fourth year after 1965, Inauguration Day, is a legal public holiday for the purpose of statutes relating to pay and leave of employees as defined by section 2105 of this title and individuals employed by the government of the District of Columbia employed in the District of Columbia, Montgomery and Prince Georges Counties in Maryland, Arlington and Fairfax Counties in Virginia, and the cities of Alexandria and Falls Church in Virginia. When January 20 of any fourth year after 1965 falls on Sunday, the next succeeding day selected for the public observance of the inauguration of the President is a legal public holiday for the purpose of this subsection.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 515; Pub. L. 90-363, § 1(a), June 28, 1968, 82 Stat. 250.)

VETERANS DAY

Pub. L. 94-97, Sept. 18, 1975, 89 Stat. 479, redesignated November 11th as Veterans Day, effective January 1, 1978.

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 87	June 28, 1894, ch. 118, 28 Stat. 96.
	5 U.S.C. 87a	May 13, 1938, ch. 210, 52 Stat. 351. June 28, 1894, ch. 118, 28 Stat. 96.
	5 U.S.C. 87b	Dec. 26, 1941, ch. 631, 55 Stat. 862.
(b)	5 U.S.C. 87c	Sept. 22, 1959, Pub. L. 86-362, §§ 1, 2, 73 Stat. 643, 644.
(c)	[Uncodified]	Jan. 11, 1957, Pub. L. 85-1, 71 Stat. 3.

In subsection (a), former sections 87, 87a, and 87b are combined and restated for clarity. The names of all holidays are inserted for ready reference in a like manner to that used in former section 87c.

In subsection (c), the year "1965" is substituted for "1957".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Subsec. (a), Pub. L. 90-363 added Columbus Day, the second Monday in October, to the enumerated legal public holidays, and substituted provisions that Washington's Birthday, Memorial Day, and Veterans Day are to be celebrated on the third Monday in February, the last Monday in May, and the fourth Monday in October, respectively, for provisions that the above mentioned public holidays are to be celebrated on February 22, May 30, and November 11, respectively.

EFFECTIVE DATE OF 1968 AMENDMENT

Section 2 of Pub. L. 90-363 provided that: "The amendment made by subsection (a) of the first section of this Act [which amended subsec. (a) of this section] shall take effect on January 1, 1971."

REFERENCES IN LAWS OF THE UNITED STATES TO OBSERVANCES OF LEGAL PUBLIC HOLIDAYS

Section 1(b) of Pub. L. 90-363 provided that: "Any reference in a law of the United States (in effect on the effective date of the amendment made by subsection (a) of this section) [January 1, 1971] to the observance of a legal public holiday on a day other than the day prescribed for the observance of such holiday by section 6103(a) of title 5, United States Code [subsec. (a) of this section], as amended by subsection (a), shall on and after such effective date be considered a reference to the day for the observance of such holiday prescribed in such amended section 6103(a).''

Executive Order No. 10358

Ex. Ord. No. 10358, June 9, 1952, 17 F.R. 1529, as amended by Ex. Ord. No. 11226, May 27, 1965, 30 F.R. 7213; Ex. Ord. No. 11272, Feb. 23, 1966, 31 F.R. 3111, formerly set out as a note under this section, which related to the observance of holidays, was revoked by Ex. Ord. No. 11582, Feb. 11, 1971, 36 F.R. 2957, set out as a note under this section.

Ex. Ord. No. 11582. Observance of Holidays

Ex. Ord. No. 11582, Feb. 11, 1971, 36 F.R. 2957, provided:

By virtue of the authority vested in me as President of the United States, it is hereby ordered as follows:

Section 1. Except as provided in section 7, this order shall apply to all executive departments, independent agencies, and Government corporations, including their field services.

Sec. 2. As used in this order:

(a) *Holiday* means the first day of January, the third Monday of February, the last Monday of May, the fourth day of July, the first Monday of September, the second Monday of October, the fourth Monday of October, the fourth Thursday of November, the twenty-fifth day of December, or any other calendar day designated as a holiday by Federal statute or Executive order.

(b) *Workday* means those hours which comprise in sequence the employee's regular daily tour of duty within any 24-hour period, whether falling entirely within one calendar day or not.

Sec. 3. (a) Any employee whose basic workweek does not include Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on Sunday.

(b) Any employee whose basic workweek includes Sunday and who would ordinarily be excused from work on a holiday falling within his basic workweek shall be excused from work on the next workday of his basic workweek whenever a holiday falls on a day that has been administratively scheduled as his *regular* weekly nonworkday in lieu of Sunday.

Sec. 4. The holiday for a full-time employee for whom the head of a department has established the first 40 hours of duty performed within a period of not more than six days of the administrative workweek as his basic workweek because of the impracticability of prescribing a regular schedule of definite hours of duty for each workday, shall be determined as follows:

(a) If a holiday occurs on Sunday, the head of the department shall designate in advance either Sunday or Monday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(b) If a holiday occurs on Saturday, the head of the department shall designate in advance either the Saturday or the preceding Friday as the employee's holiday and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on the day designated as the employee's holiday.

(c) If a holiday occurs on any other day of the week, that day shall be the employee's holiday, and the employee's basic 40-hour tour of duty shall be deemed to include eight hours on that day.

(d) When a holiday is less than a full day, proportionate credit will be given under paragraph (a), (b), or (c) of this section.

Sec. 5. Any employee whose workday covers portions of two calendar days and who would, except for this section, ordinarily be excused from work scheduled for the hours of any calendar day on which a holiday falls, shall instead be excused from work on his entire workday which commences on any such calendar day.

Sec. 6. In administering the provisions of law relating to pay and leave of absence, the workdays referred to in sections 3, 4, and 5 shall be treated as holidays in lieu of the corresponding calendar holidays.

Sec. 7. The provisions of this order shall apply to officers and employees of the Post Office Department and the United States Postal Service (except that sections 3, 4, 5, and 6 shall not apply to the Postal Field Service) until changed by the Postal Service in accordance with the Postal Reorganization Act.

Sec. 8. Executive Order No. 10358 of June 9, 1952, entitled *Observance of Holidays by Government Agencies* and amendatory Executive Orders No. 11226 of May 27, 1965, and No. 11272 of February 23, 1966, are revoked.

Sec. 9. This order is effective as of January 1, 1971.

Richard Nixon.

Cross References

Holidays of employees of the Postal Service, see section 3573 of Title 39, Postal Service.

Regulations for administration of holidays for employees of the government of the District of Columbia, see D.C. Code, § 1-260.

Section Referred to in Other Sections

This section is referred to in section 6104 of this title; title 21 section 1053; title 29 section 1201.

§ 6104. Holidays; daily, hourly, and piece-work basis employees

When a regular employee as defined by section 2105 of this title or an individual employed regularly by the government of the District of Columbia, whose pay is fixed at a daily or hourly rate, or on a piece-work basis, is relieved or prevented from working on a day—

(1) on which agencies are closed by Executive order, or, for individuals employed by the government of the District of Columbia, by order of the Commissioner;

(2) by administrative order under regulations issued by the President, or, for individuals employed by the government of the District of Columbia, by the District of Columbia Council; or

(3) solely because of the occurrence of a legal public holiday under section 6103 of this title, or a day declared a holiday by Federal statute, Executive order, or, for individuals employed by the government of the District of Columbia, by order of the Commissioner;

he is entitled to the same pay for that day as for a day on which an ordinary day's work is performed.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 516; Pub. L. 90-623, § 1(15), Oct. 22, 1968, 82 Stat. 1313.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 86a	June 29, 1938, ch. 818, § 1, 52 Stat. 1246. June 11, 1954, ch. 283, 68 Stat. 249. July 18, 1958, Pub. L. 85-533, § 2, 72 Stat. 377.

The enumeration of holidays is eliminated as unnecessary in view of section 6103.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1968—Par. (1). Pub. L. 90-623, § 1(15)(A), substituted "Commissioner" for "Board of Commissioners".

Par. (2). Pub. L. 90-623, § 1(15) (B), substituted "District of Columbia Council" for "Board of Commissioners".

Par. (3). Pub. L. 90-623, § 1(15)(A), substituted "Commissioner" for "Board of Commissioners".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

The District of Columbia Council and the office of Commissioner of the District of Columbia, as established by Reorg. Plan No. 3 of 1967, were abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, classified to section 1-131 of the District of Columbia Code, and replaced by the Council of the District of Columbia and the office of Mayor of the District of Columbia, respectively, as provided by Pub. L. 93-198, title IV, §§ 401, 421, Dec. 24, 1973, 87 Stat. 785, 789, classified to sections 1-141 and 1-161 of the District of Columbia Code.

EX. ORD. NO. 10552. DELEGATION OF AUTHORITY TO PROMULGATE REGULATIONS

Ex. Ord. No. 10552, Aug. 10, 1954, 19 F.R. 5079, provided:

By virtue of the authority vested in me by section 301 of title 3 of the United States Code, 65 Stat. 713, it is declared that the United States Civil Service Commission be, and it is hereby, designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority vested in the President by the joint resolution of June 29, 1938, 52 Stat. 1246, as amended by the act of June 11, 1954, 68 Stat. 249 [this section], to promulgate regulations under which certain employees of the Government may be prevented or relieved from working by administrative order.

DWIGHT D. EISENHOWER.

§ 6105. Closing of Executive departments

An Executive department may not be closed as a mark to the memory of a deceased former official of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 516.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 28	Mar. 3, 1893, ch. 211, § 4, 27 Stat. 715.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 6106. Time clocks; restrictions

A recording clock may not be used to record time of an employee of an Executive department in the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 516.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 27	Feb. 24, 1899, ch. 187, § 1 (14th par. on p. 864), 30 Stat. 864.

The words "District of Columbia" are substituted for "Washington" as a clearer statement.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CHAPTER 63—LEAVE

SUBCHAPTER I—ANNUAL AND SICK LEAVE

Sec.
6301. Definitions.
6302. General provisions.
6303. Annual leave; accrual.
6304. Annual leave; accumulation.
6305. Home leave; leave for Chiefs of Missions; leave for crews of vessels.
6306. Annual leave; refund of lump-sum payment; recredit of annual leave.
6307. Sick leave; accrual and accumulation.
6308. Transfers between positions under different leave systems.
[6309. Repealed.]
6310. Leave of absence; aliens.
6311. Regulations.
6312. Accrual and accumulation for former ASCS county office employees.

SUBCHAPTER II—OTHER PAID LEAVE

6321. Absence of veterans to attend funeral services.
6322. Leave for jury or witness service; official duty status for certain witness service.
6323. Military leave; Reserves and National Guardsmen.
6324. Absence of certain police and firemen.
6325. Absence resulting from hostile action abroad.
6326. Absence in connection with funerals of immediate relatives in the Armed Forces.

AMENDMENTS

1975—Pub. L. 94-183, § 2(27), Dec. 31, 1975, 89 Stat. 1058, struck out item 6309 "Leave of absence; rural carriers".

1970—Pub. L. 91-563, § 1(b), Dec. 19, 1970, 84 Stat. 1476, included witness service and official duty status for certain witness service in item 6322.

1968—Pub. L. 90-588, § 1(b), Oct. 17, 1968, 82 Stat. 1151, added item 6326.

Pub. L. 90-367, § 2(b), June 29, 1968, 82 Stat. 277, added item 6312.

1967—Pub. L. 90-221, § 3(b), Dec. 23, 1967, 81 Stat. 671, added item 6325.

1966—Pub. L. 89-747, § 1(3), Nov. 2, 1966, 80 Stat. 1179, added reference to leave for crews of vessels in item 6305.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 20 section 241.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 4-408b, 31-1603, 31-1623 of the District of Columbia Code.

SUBCHAPTER I—ANNUAL AND SICK LEAVE

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 5508, 5551 of this title; title 22 section 1151.

§ 6301. Definitions

For the purpose of this subchapter—

(1) "United States", when used in a geographical sense means the several States and the District of Columbia; and

(2) "employee" means—

(A) an employee as defined by section 2105 of this title; and

(B) an individual employed by the government of the District of Columbia;

but does not include—

(i) a teacher or librarian of the public schools of the District of Columbia;

(ii) a part-time employee who does not have an established regular tour of duty during the administrative workweek;

(iii) a temporary employee engaged in construction work at an hourly rate;

(iv) an employee of the Canal Zone Government or the Panama Canal Company when employed on the Isthmus of Panama;

(v) a physician, dentist, or nurse in the Department of Medicine and Surgery, Veterans' Administration;

(vi) an employee of either House of Congress or of the two Houses;

(vii) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(viii) an alien employee who occupies a position outside the United States, except as provided by section 6310 of this title;

(ix) a "teacher" or an individual holding a "teaching position" as defined by section 901 of title 20;

(x) an officer in the executive branch or in the government of the District of Columbia who is appointed by the President and whose rate of basic pay exceeds the highest rate payable under section 5332 of this title;

(xi) an officer in the executive branch or in the government of the District of Columbia who is designated by the President, except a postmaster, United States attorney, or United States marshal; or

(xii) an officer who receives pay under section 866 of title 22.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 517; Pub. L. 91-375, § 6(c)(17), Aug. 12, 1970, 84 Stat. 776.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)	5 U.S.C. 2061(d).	Sept. 6, 1960, Pub. L. 86-707, § 402(c), 74 Stat. 800.
(2)	5 U.S.C. 2061(a), (b), (c), (1) (less last sentence).	Oct. 30, 1951, ch. 631, § 202, 65 Stat. 679.
		July 2, 1953, ch. 178, § 1 "(c)(1) (less last sentence)", 67 Stat. 136.
		Sept. 6, 1960, Pub. L. 86-707, § 402(a), 74 Stat. 800.
		Aug. 21, 1964, Pub. L. 88-471, § 6(a), 78 Stat. 583.
	5 U.S.C. 2067	Aug. 21, 1964, Pub. L. 88-471, § 1, 78 Stat. 582.
	5 U.S.C. 2358(a) (less applicability to the Federal Employees Pay Act of 1946, as amended).	July 17, 1959, Pub. L. 86-91, § 10(a) (less applicability to the Federal Employees Pay Act of 1945, as amended), 73 Stat. 217.

In paragraph (1), the words "when used in a geographical sense" are added for clarity.

In paragraph (2), the words "an employee as defined by section 2105 of this title" are coextensive with and substituted for "civilian officers and employees of the United States . . . including officers and employees of corporations wholly owned or controlled by the United States". Specific reference to officers and members of the Metropolitan Police force of the District of Columbia, the Fire Department of the District of Columbia, the United States Park Police force, and the White House Police force, as set forth in former section 2067, is omitted as unnecessary in view of the provisions of paragraph (2)(A), (B). The exception for "commissioned officers of the Public Health Service" and "commissioned officers of the Coast and Geodetic Survey" in former section 2061(b)(1)(E), (F) is omitted as unnecessary since these officers are excluded by the definition of the word "employee" in section 2105.

In paragraph (2)(ix), the words "as defined by section 901 of title 20" are added on authority of former section 2351, which section is scheduled for transfer to section 901 of title 20.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1970—Par. (2)(ii). Pub. L. 91-375 struck out ", except an hourly employee in the postal field service," following "part-time employee".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

EX. ORD. NO. 10540. DESIGNATION OF CERTAIN OFFICERS AS EXEMPT

Ex. Ord. No. 10540, June 29, 1954, 19 F.R. 3983, provided:

1. Subject to the provisions of section 2 hereof, officers in the executive branch of the Government and officers of the government of the District of Columbia, including officers of corporations wholly owned or controlled by the United States, who now or may hereafter occupy the positions set forth in the schedule attached hereto and made a part hereof are hereby designated as officers to whom the Annual and Sick Leave Act of 1951, as amended [this chapter], shall not apply.

2. The Chairman of the United States Civil Service Commission is hereby designated and empowered, without the approval, ratification, or other action of the President, to exercise the authority conferred upon the President by section 202(c)(1)(C) of the said Annual and Sick Leave Act of 1951, as amended [now (2)(xi) of this section], to designate officers in the executive branch of the Government and officers of the government of the District of Columbia, including officers of corporations wholly owned or controlled by the United States, to whom the said Annual and Sick Leave Act of 1951, as amended [this chapter], shall not apply. The authority delegated by this paragraph to the Chairman of the Civil Service Commission shall be deemed to include the authority to add positions to, or delete positions from, the schedule of positions attached hereto and made a part hereof, as the Chairman may from time to time consider appropriate.

3. This order shall become effective immediately except that paragraph 1 thereof shall become effective on the first day of the first pay period of the respective officers concerned which begins after the date of this order.

DWIGHT D. EISENHOWER.

Schedule of Positions Referred to in Executive Order No. 10540

I. Executive Office of the President

1. Assistant Director, Bureau of the Budget, authorized by Title I of the First Independent Offices Appropriation Act, 1954 (67 Stat. 298, 299).

II. Department of State

1. Legal Adviser.
2. Administrator, Bureau of Security and Consular Affairs.
3. Commissioner, International Boundary Commission—United States, Alaska and Canada.
4. Commissioner, International Boundary and Water Commission—United States and Mexico.
5. Commissioner, International Joint Commission—United States and Canada.
6. Representative, United States Mission to the United Nations. [1]
7. Deputy Representative, United States Mission to the United Nations. [1]

III. Department of the Treasury

1. Treasurer of the United States.
2. Assistant Treasurer of the United States.
3. General Counsel.

IV. Department of the Army

1. Commissioner, Mississippi River Commission.

V. Department of the Interior

(a) Office of Territories.
1. Governor of Guam.
2. Government Secretary of Guam.
3. Governor of American Samoa.
4. Secretary of American Samoa.

VI. Department of Labor

1. Solicitor.
2. Director, Women's Bureau.

VII. Department of Commerce

1. General Counsel.

VIII. Central Intelligence Agency

1. Deputy Director.

IX. Federal Mediation and Conciliation Service

1. Associate Director.

X. General Services Administration

1. Deputy Administrator.

XI. Housing and Home Finance Agency

1. Deputy Administrator.

XII. Indian Claims Commission

1. Chief Commissioner.
2. Associate Commissioner.

XIII. Small Business Administration

1. Deputy Administrator.

XIV. Veterans Administration

1. Deputy Administrator.

XV. War Claims Commission

1. Commissioner.

XVI. Government of the District of Columbia

1. Member, Board of Commissioners.
2. Member, Public Utility Commission.

Cross References

Advancement of sick leave in case of serious disability, see section 6307 of this title.

Annual leave of Government employees to be accumulated, see section 6304 of this title.

Cumulative sick leave of civilian employees of United States, see section 6307 of this title.

Foreign Service officers and career ministers, this subchapter as applicable notwithstanding provisions of par. (2)(x) of this section, see section 1151 of Title 22, Foreign Relations and Intercourse.

Leave, members of armed forces, entitlement and accumulation, see section 701 et seq. of Title 10, Armed Forces.

Leaves of absence in United States to personnel of Veterans' Administration assigned to the Republic of the Philippines, see section 235 of Title 38, Veterans' Benefits.

Section Referred to in Other Sections

This section is referred to in sections 5551, 6302, 6305, 6306, 6308 of this title; title 22 section 1151.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 6302. General provisions

(a) The days of leave provided by this subchapter are days on which an employee would otherwise work and receive pay and are exclusive of holidays and nonworkdays established by Federal statute, Executive order, or administrative order.

(b) For the purpose of this subchapter an employee is deemed employed for a full biweekly pay period if he is employed during the days within that period, exclusive of holidays and nonworkdays established by Federal statute, Executive order, or administrative order, which fall within his basic administrative workweek.

(c) A part-time employee, unless otherwise excepted, is entitled to the benefits provided by subsection (d) of this section and sections 6303, 6304(a), (b), 6305(a), 6307, and 6310 of this title on a pro rata basis.

(d) The annual leave provided by this subchapter, including annual leave that will accrue to an employee during the year, may be granted at any time during the year as the head of the agency concerned may prescribe.

(e) If an officer excepted from this subchapter by section 6301(2)(x)-(xii) of this title, without a break in service, again becomes subject to this subchapter on completion of his service as an excepted officer, the unused annual and sick leave standing to his credit when he was excepted from this subchapter is deemed to have remained to his credit.

(f) An employee who uses excess annual leave credited because of administrative error may elect to refund the amount received for the days of excess leave by lump-sum or installment payments or to have the excess leave carried forward as a charge against later-accruing annual leave, unless repayment is waived under section 5584 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 517; Pub. L. 93-181, § 4, Dec. 14, 1973, 87 Stat. 706.)

---

[1] Except when position is filled by a Federal officer or employee compensated for a position not exempted by or pursuant to section 202(c)(1)(C) of the Annual and Sick Leave Act of 1951, as amended.

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(c)	5 U.S.C. 2064 (less (d), (e)).	Oct. 30, 1951, ch. 631, § 205 (less (d)), 65 Stat. 681.
(d)	5 U.S.C. 2062(h)	Oct. 30, 1951, ch. 631, § 203(h), 65 Stat. 681.
(e)	5 U.S.C. 2061a(b)	July 2, 1953, ch. 178, § 2(b), 67 Stat. 137.

In subsection (d), the words "the head of the agency concerned" are substituted for "the heads of the various departments and independent establishments".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1973—Subsec. (f). Pub. L. 93-181 added subsec. (f).

CROSS REFERENCES

Officers to whom this subchapter applies not entitled to pay solely because of their status as officers, see section 5508 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 6303. Annual leave; accrual

(a) An employee is entitled to annual leave with pay which accrues as follows—

(1) one-half day for each full biweekly pay period for an employee with less than 3 years of service;

(2) three-fourths day for each full biweekly pay period, except that the accrual for the last full biweekly pay period in the year is one and one-fourth days, for an employee with 3 but less than 15 years of service; and

(3) one day for each full biweekly pay period for an employee with 15 or more years of service.

In determining years of service, an employee is entitled to credit for all service creditable under section 8332 of this title for the purpose of an annuity under subchapter III of chapter 83 of this title. However, an employee who is a retired member of a uniformed service as defined by section 3501 of this title is entitled to credit for active military service only if—

(A) his retirement was based on disability—

(i) resulting from injury or disease received in line of duty as a direct result of armed conflict; or

(ii) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by sections 101 and 301 of title 38;

(B) that service was performed in the armed forces during a war, or in a campaign or expedition for which a campaign badge has been authorized; or

(C) on November 30, 1964, he was employed in a position to which this subchapter applies and thereafter he continued to be so employed without a break in service of more than 30 days.

The determination of years of service may be made on the basis of an affidavit of the employee. Leave provided by this subchapter accrues to an employee who is not paid on the basis of biweekly pay periods on the same basis as it would accrue if the employee were paid on the basis of biweekly pay periods.

(b) Notwithstanding subsection (a) of this section, an employee whose current employment is limited to less than 90 days is entitled to annual leave under this subchapter only after being currently employed for a continuous period of 90 days under successive appointments without a break in service. After completing the 90-day period, the employee is entitled to be credited with the leave that would have accrued to him under subsection (a) of this section except for this subsection.

(c) A change in the rate of accrual of annual leave by an employee under this section takes effect at the beginning of the pay period after the pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, in which the employee completed the prescribed period of service.

(d) Leave granted under this subchapter is exclusive of time actually and necessarily occupied in going to or from a post of duty and time necessarily occupied awaiting transportation, in the case of an employee—

(1) to whom section 6304(b) of this title applies;

(2) whose post of duty is outside the United States; and

(3) who returns on leave to the United States, or to his place of residence, which is outside the area of employment, in its territories or possessions including the Commonwealth of Puerto Rico.

This subsection does not apply to more than one period of leave in a prescribed tour of duty at a post outside the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 518; Pub. L. 93-181, § 2, Dec. 14, 1973, 87 Stat. 705.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2062(a), (b), (e), (i).	Oct. 30, 1951, ch. 631, § 203(a), (b), (e), (i), 65 Stat. 679-681. Sept. 6, 1960, Pub. L. 86-707, § 401 "(e)", 74 Stat. 799. Aug. 19, 1964, Pub. L. 88-448, § 203, 78 Stat. 487.
....	5 U.S.C. 3101 (as applicable to 5 U.S.C. 2062(a)).	Aug. 19, 1964, Pub. L. 88-448, § 101 (as applicable to § 203), 78 Stat. 484.

In subsection (a), the words "Except as otherwise provided in this subsection" are omitted as unnecessary in view of the specific inclusion of the exception in the third sentence. The words "for the purposes of this subsection" are omitted as surplusage. The reference to "section 8332 of this title for the purpose of an annuity under subchapter III of chapter 83 of this title" is substituted for "section 3 of the Civil Service Retirement Act for the purposes of an annuity under such Act to reflect the codification of that Act in this title. In paragraph (B), the words "on November 30, 1964, he was employed in a position to which this subchapter applies and thereafter he continued to be so employed" are substituted for "immediately prior to the effective date of this sentence he was employed in a civilian office to which this Act applies and, on and after such date, he continued to be employed in any such office".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1973—Subsec. (b). Pub. L. 93-181 substituted "an employee whose current employment is limited to less than 90 days is entitled" and "under successive appointments" for "an employee is entitled" and "under one or more appointments" respectively.

CROSS REFERENCES

United States Maritime Service administrative enrollees, annual leave credit for service rendered prior to acquisition of civil service status, see section 1126 of Title 46, Shipping.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6302, 6304, 6312 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 6304. Annual leave; accumulation

(a) Except as provided by subsections (b), (d), and (e) of this section, annual leave provided by section 6303 of this title, which is not used by an employee, accumulates for use in succeeding years until it totals not more than 30 days at the beginning of the first full bi-weekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year.

(b) Annual leave not used by an employee of the Government of the United States in one of the following classes of employees stationed outside the United States accumulates for use in succeeding years until it totals not more than 45 days at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year:

(1) Individuals directly recruited or transferred by the Government of the United States from the United States or its territories or possessions including the Commonwealth of Puerto Rico for employment outside the area of recruitment or from which transferred.

(2) Individuals employed locally but—

(A) (i) who were originally recruited from the United States or its territories or possessions including the Commonwealth of Puerto Rico but outside the area of employment;

(ii) who have been in substantially continuous employment by other agencies of the United States, United States firms, interests, or organizations, international organizations in which the United States participates, or foreign governments; and

(iii) whose conditions of employment provide for their return transportation to the United States or its territories or possessions including the Commonwealth of Puerto Rico; or

(B) (i) who were at the time of employment temporarily absent, for the purpose of travel or formal study, from the United States, or from their respective places of residence in its territories or possessions including the Commonwealth of Puerto Rico; and

(ii) who, during the temporary absence, have maintained residence in the United States or its territories or possessions including the Commonwealth of Puerto Rico but outside the area of employment.

(3) Individuals who are not normally residents of the area concerned and who are discharged from service in the armed forces to accept employment with an agency of the Government of the United States.

(c) Annual leave in excess of the amount allowable—

(1) under subsection (a) or (b) of this section which was accumulated under earlier statute; or

(2) under subsection (a) of this section which was accumulated under subsection (b) of this section by an employee who becomes subject to subsection (a) of this section;

remains to the credit of the employee until used. The excess annual leave is reduced at the beginning of the first full biweekly pay period, or corresponding period for an employee who is not paid on the basis of biweekly pay periods, occurring in a year, by the amount of annual leave the employee used during the preceding year in excess of the amount which accrued during that year, until the employee's accumulated leave does not exceed the amount allowed under subsection (a) or (b) of this section, as appropriate.

(d)(1) Annual leave which is lost by operation of this section because of—

(A) administrative error when the error causes a loss of annual leave otherwise accruable after June 30, 1960;

(B) exigencies of the public business when the annual leave was scheduled in advance; or

(C) sickness of the employee when the annual leave was scheduled in advance;

shall be restored to the employee.

(2) Annual leave restored under paragraph (1) of this subsection, or under clause (2) of section 5562(a) of this title, which is in excess of the maximum leave accumulation permitted by law shall be credited to a separate leave account for the employee and shall be available for use by the employee within the time limits prescribed by regulations of the Civil Service Commission. Leave credited under this paragraph but unused and still available to the employee under the regulations prescribed by the Commission shall be included in the lump-sum payment under section 5551 or 5552(1) of this title but may not be retained to the credit of the employee under section 5552(2) of this title.

(e) Annual leave otherwise accruable after June 30, 1960, which is lost by operation of this section because of administrative error and which is not credited under subsection (d)(2) of this section because the employee is separated before the error is discovered, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within 3 years immediately following the date of discovery of the error. Payment shall be made by the agency of employment when the lump-sum payment provisions of section 5551 of this title last became applicable to the employee at the salary rate in effect on the date of [1] the lump-sum provisions became applicable.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 519; Pub. L. 93-181, § 3, Dec. 14, 1973, 87 Stat. 705.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 2062(c).	Oct. 30, 1951, ch. 631, § 203(c), 65 Stat. 680. July 2, 1953, ch. 178, § 3(a), 67 Stat. 137.
(b)	5 U.S.C. 2602(d)	Oct. 30, 1951, ch. 631, § 203(d), 65 Stat. 680. July 2, 1953, ch. 178, § 3(b), 67 Stat. 137. Sept. 6, 1960, Pub. L. 86-707, § 401 "(d)", 74 Stat. 799.
(c)	5 U.S.C. 2066(a)	Oct. 30, 1951, ch. 631, § 208(a), 65 Stat. 682. July 2, 1953, ch. 178, § 3(c), 67 Stat. 137.

The words "Except as provided by subsection (b) of this section" are added to subsection (a), and the words "Notwithstanding the provisions of subsection (c)" in former section 2062(d) are omitted as unnecessary because of the exception added to subsection (a).

The words "full biweekly pay period" are substituted for "complete biweekly pay period" to conform to section 6303.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1973—Subsec. (a). Pub. L. 93-181, § 3(1), substituted "subsections (b), (d), and (e) of this section" for "subsection (b) of this section".

Subsecs. (d), (e). Pub. L. 93-181, § 3(2), added subsecs. (d) and (e).

LUMP-SUM PAYMENT FOR ACCRUED ANNUAL LEAVE TO FORMER EMPLOYEES OTHER THAN EMPLOYEES OF THE POST OFFICE DEPARTMENT AND UNITED STATES POSTAL SERVICE

Section 5 of Pub. L. 93-181 provided that: "With respect to a former employee (except a former employee under section 6 of this Act) [employees of the Post Office Department and the United States Postal Service] who is not on the rolls on the date of enactment of this Act [Dec. 14, 1973], annual leave which accrued after June 30, 1960, but, because of administrative error, was lost by operation of section 6304 of title 5, United States Code is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of enactment of this Act [Dec. 14, 1973], with the agency by which he was employed when the lump-sum payment provisions of section 5551 of title 5, United States Code, last became applicable to him. Payment shall be by that agency at the salary rate in effect on the date the lump-sum payment provisions became applicable."

LUMP-SUM PAYMENT FOR ACCRUED ANNUAL LEAVE TO EMPLOYEES OF THE POST OFFICE DEPARTMENT AND THE UNITED STATES POSTAL SERVICE

Section 6 of Pub. L. 93-181 provided that:

"(a) With respect to a former employee of the Post Office Department or a former employee of the United States Postal Service who had prior civilian service with the Post Office Department or other Federal agency, who is not on the rolls on the date of enactment of this Act [Dec. 14, 1973], annual leave which accrued after June 30, 1960, and before July 1, 1971, but, because of administrative error was lost by operation of section 6304 of title 5, United States Code, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of enactment of this Act [Dec. 14, 1973] with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date the lump-sum payment provisions of section 5551 of title 5, United States Code, or comparable provisions of regulations of the Postal Service, as appropriate, last became applicable to the former employee.

"(b) With respect to a present employee of the Postal Service who had prior Federal civilian service with the Post Office Department or other Federal agency, annual leave which accrued after June 30, 1960, and before July 1, 1971, but, because of administrative error was lost by operation of section 6304 of title 5, United States Code, is subject to credit and liquidation by lump-sum payment only if a claim therefor is filed within three years immediately following the date of enactment of this Act [Dec. 14, 1973] with the Postal Service. Payment shall be by the Postal Service at the salary rate in effect on the date of enactment of this Act [Dec. 14, 1973]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 5562, 6302, 6303, 6305 of this title; title 40 section 174j-8.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 6305. Home leave; leave for Chiefs of Missions; leave for crews of vessels

(a) After 24 months of continuous service outside the United States, an employee may be granted leave of absence, under regulations of the President, at a rate not to exceed 1 week for each 4 months of that service without regard to other leave provided by this subchapter. Leave so granted—

(1) is for use in the United States, or if the employee's place of residence is outside the area of employment, in its territories or possessions including the Commonwealth of Puerto Rico;

(2) accumulates for future use without regard to the limitation in section 6304(b) of this title; and

(3) may not be made the basis for terminal leave or for a lump-sum payment.

(b) The President may authorize leave of absence to an officer excepted from this subchapter by section 6301(2)(xii) of this title for use in the United States and its territories or possessions. Leave so authorized does not constitute a leave system and may not be made the basis for a lump-sum payment.

(c) An officer, crewmember, or other employee serving aboard an oceangoing vessel on an extended voyage may be granted leave of absence, under regulations of the Civil Service Commission, at a rate not to exceed 2 days for each 30 calendar days of that service without regard to other leave provided by this subchapter. Leave so granted—

(1) accumulates for future use without regard to the limitation in section 6304(b) of this title;

(2) may not be made the basis for a lump-sum payment; and

(3) may not be made the basis for terminal leave except under such special or emergency circumstances as may be prescribed under the regulations of the Commission.

---

[1] So in original.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 520; Pub. L. 89-747, § 1(1), (2), Nov. 2, 1966, 80 Stat. 1179; Pub. L. 90-623, § 1(16), Oct. 22, 1968, 82 Stat. 1313.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 2062(f)	Oct. 30, 1951, ch. 631, § 203 (f), 65 Stat. 680. Sept. 6, 1960, Pub. L. 86-707, § 401 "(f)", 74 Stat. 799.
(b)	5 U.S.C. 2061 (c)(2)	July 2, 1953, ch. 178, § 1 "(c)(2)", 67 Stat. 136.

The words "in his discretion" are omitted as unnecessary in view of the permissive grant of authority.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1968—Subsec. (c). Pub. L. 90-623 substituted "2" and "30" for "two" and "thirty", respectively.

1966—Subsec. (c). Pub. L. 89-747 added subsec. (c) and added reference to leave for crews of vessels in the section catchline.

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

Delegation of Functions

Functions of the President under subsec. (a) of this section delegated to the Civil Service Commission, see section 1(2) of Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

Ex. Ord. No. 10471. Authorization to Grant Leaves of Absence

Ex. Ord. No. 10471, July 17, 1953, 18 F.R. 4231, provided:

1. The heads of the several departments and agencies of the Government are hereby authorized and empowered, without the approval, ratification, or other action of the President, to exercise, with respect to personnel in their respective department or agency, the authority conferred upon the President by section 202(c)(2) of the Annual and Sick Leave Act of 1951, as added by the act of July 2, 1953, Public Law 102, 83rd Congress [now subsec. (b) of this section], to authorize leaves of absence in accordance with the said section 202(c)(2) to persons who receive compensation in accordance with section 411 of the Foreign Service Act of 1946 [section 866 of Title 22].

2. This order shall be effective as of July 5, 1953.

Section Referred to in Other Sections

This section is referred to in section 6302 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 6306. Annual leave; refund of lump-sum payment; recredit of annual leave

(a) When an individual who received a lump-sum payment for leave under section 5551 of this title is reemployed before the end of the period covered by the lump-sum payment in or under the Government of the United States or the government of the District of Columbia, except in a position excepted from this subchapter by section 6301(2)(ii), (iii), (vi), or (vii) of this title, he shall refund to the employing agency an amount equal to the pay covering the period between the date of reemployment and the expiration of the lump-sum period.

(b) An amount refunded under subsection (a) of this section shall be deposited in the Treasury of the United States to the credit of the employing agency. When an individual is reemployed under the same leave system, an amount of leave equal to the leave represented by the refund shall be recredited to him in the employing agency. When an individual is reemployed under a different leave system, an amount of leave equal to the leave represented by the refund shall be recredited to him in the employing agency on an adjusted basis under regulations prescribed by the Civil Service Commission. When an individual is reemployed in a position excepted from this subchapter by section 6301(2)(x)-(xii) of this title, an amount of leave equal to the leave represented by the refund is deemed, on separation from the service, death, or transfer to another position in the service, to have remained to his credit.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 520.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 61b (3d-5th sentences).	Dec. 21, 1944, ch. 632, § 1 (1st proviso and so much of last sentence as precedes 2d proviso), 58 Stat. 845. July 2, 1953, ch. 178, § 4(a) (2d-4th sentences), 67 Stat. 137. Aug. 18, 1959, Pub. L. 86-168, § 202(e), 73 Stat. 389.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in title 22 section 1149.

§ 6307. Sick leave; accrual and accumulation

(a) An employee is entitled to sick leave with pay which accrues on the basis of one-half day for each full biweekly pay period, except that sick leave with pay accrues to a member of the Firefighting Division of the Fire Department of the District of Columbia on the basis of two-fifths of a day for each full biweekly pay period.

(b) Sick leave provided by this section, which is not used by an employee, accumulates for use in succeeding years.

(c) When required by the exigencies of the situation, a maximum of 30 days sick leave with pay may be advanced for serious disability or ailment, except that a maximum of 24 days sick leave with pay may be advanced to a member of the Firefighting Division of the Fire Department of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 520.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2063	Oct. 30, 1951, ch. 631, § 204, 65 Stat. 681. Aug. 21, 1964, Pub. L. 88-471, § 6(b), (c), 78 Stat. 583.

The word "officer", referring to an officer of the Firefighting Division, is omitted as covered by the words "a member of the Firefighting Division".

In subsection (c), the words "with pay" are added for clarity.

Standard changes are made to conform with the definitions applicable and style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6302 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 6308. Transfers between positions under different leave systems

The annual and sick leave to the credit of an employee who transfers between positions under different leave systems without a break in service shall be transferred to his credit in the employing agency on an adjusted basis under regulations prescribed by the Civil Service Commission, unless the individual is excepted from this subchapter by section 6301(2) (ii), (iii), (vi), or (vii) of this title. However, when a former member receiving a retirement annuity under sections 521-535 of title 4, District of Columbia Code, is reemployed in a position to which this subchapter applies, his sick leave balance may not be recredited to his account on the later reemployment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 521.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2064(e)	July 2, 1953, ch. 178, § 4(b), 67 Stat. 138. Aug. 18, 1959, Pub. L. 86-168, § 202(e), 73 Stat. 389. Aug. 21, 1964, Pub. L. 88-471, § 6(d), 78 Stat. 583.

In the last sentence, the word "officer" is omitted as covered by the word "member", and the words "sections 521-535 of title 4, District of Columbia Code" are substituted for "the Policemen and Firemen's Retirement and Disability Act, as amended".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Transfer of leave of persons assigned to the Foreign Service as a Reserve officer, see section 1149 of Title 22, Foreign Relations and Intercourse.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 6312 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

[§ 6309. Repealed. Pub. L. 94-183, § 2(26), Dec. 31, 1975, 89 Stat. 1058.]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 521, related to the authorized leave of absence of a rural postal carrier which occurred at the beginning, during, or at the end of a period of annual or sick leave.

§ 6310. Leave of absence; aliens

The head of the agency concerned may grant leave of absence with pay, not in excess of the amount of annual and sick leave allowable to citizen employees under this subchapter, to alien employees who occupy positions outside the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 521.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2062(g)	Oct. 30, 1951, ch. 631, § 203 (g), 65 Stat. 681. Sept. 6, 1960, Pub. L. 86-707, § 402(b), 74 Stat. 800.

The words "head of the agency concerned" are substituted for "head of the department or agency concerned".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6301, 6302 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 6311. Regulations

The Civil Service Commission may prescribe regulations necessary for the administration of this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 521.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2065	Oct. 30, 1951, ch. 631, § 206, 65 Stat. 681.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 6312. Accrual and accumulation for former ASCS county office employees

Service rendered as an employee of a county committee established pursuant to section 590h(b) of title 16, or of a committee or an association of producers described in section 610(b) of title 7, shall be included in determining years of service for the purpose of section 6303(a) of this title in the case of any officer or employee in or under the Department of Agriculture. The provisions of section 6308 of this title for transfer of annual and sick leave between leave systems shall apply to the leave system established for such employees.

(Added Pub. L. 90-367, § 2(a), June 29, 1968, 82 Stat. 277, and amended Pub. L. 90-623, § 1(25), Oct. 22, 1968, 82 Stat. 1314.)

AMENDMENTS

1968—Pub. L. 90-623 substituted "section 590h(b) of title 16" and "section 610(b) of title 7" for "section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h(b))" and "section 10(b) of the Agricultural Adjustment Act of May 12, 1933 (48 Stat. 37)" respectively.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

SUBCHAPTER II—OTHER PAID LEAVE

§ 6321. Absence of veterans to attend funeral services

An employee in or under an Executive agency who is a veteran of a war, or of a campaign or expedition for which a campaign badge has been authorized, or a member of an honor or ceremonial group of an organization of those veterans, may be excused from duty without loss of pay or deduction from annual leave for the time necessary, not to exceed 4 hours in any one day, to enable him to participate as an active pallbearer or as a member of a firing squad or a guard of honor in a funeral ceremony for a member of the armed forces whose remains are returned from abroad for final interment in the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 521.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 30q	Aug. 16, 1949, ch. 441, 63 Stat. 608. July 17, 1952, ch. 932, § 1, 66 Stat. 758.

The words "Executive agency" are coextensive with and substituted for "executive branch of the Government" in view of the definition of "Executive agency" in section 105. Applicability to the General Accounting Office is based on former section 933a.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 6322. Leave for jury or witness service; official duty status for certain witness service

(a) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia is entitled to leave, without loss of, or reduction in, pay, leave to which he otherwise is entitled, credit for time or service, or performance of efficiency rating, during a period of absence with respect to which he is summoned, in connection with a judicial proceeding, by a court or authority responsible for the conduct of that proceeding, to serve—

(1) as a juror; or

(2) other than as provided in subsection (b) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party;

in the District of Columbia, a State, territory, or possession of the United States including the Commonwealth of Puerto Rico, the Canal Zone, or the Trust Territory of the Pacific Islands. For the purpose of this subsection, "judicial proceeding" means any action, suit, or other judicial proceeding, including any condemnation, preliminary, informational, or other proceeding of a judicial nature, but does not include an administrative proceeding.

(b) An employee as defined by section 2105 of this title (except an individual whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives) or an individual employed by the government of the District of Columbia is performing official duty during the period with respect to which he is summoned, or assigned by his agency, to—

(1) testify or produce official records on behalf of the United States or the District of Columbia; or

(2) testify in his official capacity or produce official records on behalf of a party other than the United States or the District of Columbia.

(c) The Civil Service Commission may prescribe regulations for the administration of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 522; Pub. L. 91-563, § 1(a), Dec. 19, 1970, 84 Stat. 1476; Pub. L. 94-310, § 1, June 15, 1976, 90 Stat. 687.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 30n	June 29, 1940, ch. 446, § 1, 54 Stat. 689.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1976—Subsec. (a)(2). Pub. L. 94-310 substituted "other than as provided in subsection (b) of this section, as a witness on behalf of any party in connection with any judicial proceeding to which the United States, the District of Columbia, or a State or local government is a party" for "as a witness on behalf of a party other than the United States, the District of Columbia, or a private party".

1970—Pub. L. 91-563 included witness service and official duty status for certain witness service in section catchline.

Subsec. (a). Pub. L. 91-563 designated existing provisions as subsec. (a) and expanded such provisions to authorize leave for jury service in courts in the District of Columbia and in territories and possessions of the United States, to permit leave for persons summoned as witnesses in behalf of a party other than the United States, the District of Columbia, or a private party, defined "judicial proceeding", and excepted individuals whose pay is disbursed by the Secretary of the Senate or the Clerk of the House of Representatives.

Subsecs. (b), (c). Pub. L. 91-563 added subsecs. (b) and (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-310 effective Oct. 1, 1976, see note set out under section 130b of Title 2, The Congress.

CROSS REFERENCES

Jury and witness service by employees of the Senate and the House, see section 130b of Title 2, The Congress.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5515 of this title.

§ 6323. Military leave; Reserves and National Guardsmen

(a) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, is entitled to leave without loss in pay, time, or performance or efficiency rating for each day, not in excess of 15 days in a calendar year, in which he is on active duty or is engaged in field or coast defense training under sections 502-505 of title 32 as a Reserve of the armed forces or member of the National Guard.

[(b) Repealed. Pub. L. 91-375, § 6(c)(18)(B), Aug. 12, 1970, 84 Stat. 776.]

(c) Except as provided by section 5519 of this title, an employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, permanent or temporary indefinite, who—

(1) is a member of a Reserve component of the Armed Forces, as described in section 261 of title 10, or the National Guard, as described in section 101 of title 32; and

(2) performs, for the purpose of providing military aid to enforce the law—

(A) Federal service under section 331, 332, 333, 3500, or 8500 of title 10, or other provision of law, as applicable, or

(B) full-time military service for his State, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, or a territory of the United States;

is entitled, during and because of such service, to leave without loss of, or reduction in, pay, leave to which he otherwise is entitled, credit for time or service, or performance or efficiency rating. Leave granted by this subsection shall not exceed 22 work-days in a calendar year.

(c) An employee as defined by section 2105 of this title or an individual employed by the government of the District of Columbia, who is a member of the National Guard of the District of Columbia, is entitled to leave without loss in pay or time for each day of a parade or encampment ordered or authorized under title 39, District of Columbia Code. This subsection covers each day of service the National Guard, or a portion thereof, is ordered to perform by the Commanding general.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 522; Pub. L. 90-588, § 2(a), Oct. 17, 1968, 82 Stat. 1151; Pub. L. 90-623, § 1(17), Oct. 22, 1968, 82 Stat. 1313; Pub. L. 91-375, § 6(c)(18), Aug. 12, 1970, 84 Stat. 776.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 30r (a)	Aug. 10, 1956, ch. 1041, § 29 (a), 70A Stat. 632. Sept. 2, 1958, Pub. L. 85-861, § 13, 72 Stat. 1557. June 30, 1960, Pub. L. 86-559, § 7, 74 Stat. 282. Oct. 4, 1961, Pub. L. 87-378, § 7(a), 75 Stat. 809.

In subsection (a), the words "without regard to classification or terminology peculiar to the Civil Service system" are omitted as unnecessary. The word "performance" is added on authority of the Performance Rating Act of 1950, which is carried into chapter 43 of this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1970—Subsec. (a). Pub. L. 91-375, § 6(c)(18)(A), struck out parenthetical phrase "(except a substitute in the postal field service)" following introductory "section 2105 of this title".

Subsec. (b), Pub. L. 91-375, § 6(c)(18)(B), struck out subsec. (b) provisions for military leave, without loss in pay, time, or efficiency rating, of substitute employees of the postal service, not in excess of 80 hours in a calendar year, for National Guard training as Reserves of the Armed Forces or members of the National Guard, on basis of 1 hour for 26 hours of work, including minimum working period of 1,040 hours in the prior calendar year.

Subsec. (c). Pub. L. 91-375, § 6(c)(18)(A), struck out in the initial subsec. (c), parenthetical phrase "(except a substitute in the postal field service)" following introductory "section 2105 of this title".

Subsec. (d) Pub. L. 91-375, § 6(c)(18)(B), struck out subsec. (d) provisions for military leave, without loss of or reduction in pay, leave, service credit, or efficiency rating, of substitute employees of the postal service, not in excess of 160 hours in a calendar year, for service as members of Reserve components of the Armed Forces or the National Guard, for Federal service under insurrection provisions of sections 331, 332, and 333 and in the Army National Guard and Air National Guard under sections 3500 and 8500 of Title 10 and non-Federal service (in the States, District of Columbia, Puerto Rico, Canal Zone, and the territories) for purpose of providing military aid to enforce the law, on basis of 1 hour for 13 hours of work, including minimum working period of 1,040 hours in the prior calendar year.

1968—Subsecs. (a), (b). Pub. L. 90-623, § 1(17)(A), substituted "loss in" for "loss of".

Subsec. (c). Pub. L. 90-623, § 1(17)(B), added subsec. (c), set out second.

Subsec. (c). Pub. L. 90-588 added subsec. (c), set out first.

Subsec. (d). Pub. L. 90-588 added subsec. (d).

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and Published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 effective as of Sept. 6, 1966, for all purposes, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

DEFINITION OF OFFICERS AND EMPLOYEES

Section 4 of act July 1, 1947, ch. 192, 61 Stat. 239, as amended by act June 22, 1956, ch. 428, 70 Stat. 331, provided that: "The words 'officers and employees of the United States or of the District of Columbia' as used in the third paragraph, subheading 'Ordinance Stores and Equipment for Reserve Officers Training Corps', of the Act of May 12, 1917 (40 Stat. 72; 10 U.S.C. Annotated 371) [now covered by this section], as now or hereafter amended, as used in that part of section 80 of the Act of June 3, 1916 (39 Stat. 203; 32 U.S.C. 75) [now covered by this section], as now or hereafter amended, which precedes the proviso, and as used in the first proviso of section 9 of the Naval Reserve Act of 1938 (52 Stat. 1177; 34 U.S.C. 853g) [now covered by this section], as now or hereafter amended, shall be construed to mean all officers and employees of the United States or of the District of Columbia, permanent or temporary indefinite, without regard to classifications or terminology peculiar to the Federal Civil Service System. The words 'officers and employees of the United States or of the District of Columbia', as used in such provisions of law, as now or hereafter amended, also shall be construed to mean substitute employees in the postal field service; such substitute employees shall be entitled to military leave of absence on the basis of one hour of such leave for each period or periods aggregating twenty-six hours of work performed in the calendar year immediately preceding the year in which they are ordered to duty by proper authority: Provided, That the number of hours worked during the preceding calendar year shall not be less than one thousand forty hours before such substitute employee shall be entitled to military leave of absence, pay for such leave not to exceed eighty hours in each calendar year."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 5519 of this title.

§ 6324. Absence of certain police and firemen

(a) Sick leave may not be charged to the account of a member of the Metropolitan Police force or the Fire Department of the District of Columbia, the United States Park Police force, or the Executive Protective Service force for an absence due to injury or illness resulting from the performance of duty.

(b) The determination of whether an injury or illness resulted from the performance of duty shall be made under regulations prescribed by—

(1) the District of Columbia Council for members of the Metropolitan Police force and the Fire Department of the District of Columbia;

(2) the Secretary of the Interior for the United States Park Police force; and

(3) The Secretary of the Treasury for the Executive Protective Service force.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 522; Pub. L. 90-623, § 1(18), Oct. 22, 1968, 82 Stat. 1313; Pub. L. 94-183, § 2(28), (29), Dec. 31, 1975, 89 Stat. 1058.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2071	Aug. 21, 1964, Pub. L. 88-471, § 5, 78 Stat. 583.

The word "officer" is omitted as covered by "member".

In subsection (b), the words "injury or illness" are substituted for "injury or disease" to conform to subsection (a).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-183, § 2(28), substituted "Executive Protective Service" for "White House Police".

Subsec. (b)(3). Pub. L. 94-183, § 2(29), substituted "Executive Protective Service" for "White House Police".

1968—Subsec. (b)(1). Pub. L. 90-623 substituted "District of Columbia Council" for "Commissioners of the District of Columbia".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

TRANSFER OF FUNCTIONS

The District of Columbia Council, as established by Reorg. Plan No. 3 of 1967, was abolished as of noon Jan. 2, 1975, by Pub. L. 93-198, title VII, § 711, Dec. 24, 1973, 87 Stat. 818, classified to section 1-131 of the District of Columbia Code, and replaced by the Council of the District of Columbia, as provided by Pub. L. 93-198, title IV, § 401, Dec. 24, 1973, 87 Stat. 785, classified to section 1-141 of the District of Columbia Code.

§ 6325. Absence resulting from hostile action abroad

No leave shall be charged to the account of any officer or employee for absence, not to exceed one year, due to any injury incurred while serving abroad and resulting from war, insurgency, mob violence, or similar hostile action: *Provided,* That the injury shall not have been due to vicious habits, intemperance, or willful misconduct on the part of the officer or employee.

(Added Pub. L. 90-221, § 3(a), Dec. 23, 1967, 81 Stat. 671.)

EFFECTIVE DATE

Section 3(c) of Pub. L. 90-221 provided that: "The amendment made by subsection (a) of this section [adding this section] shall take effect as of the first day of the first pay period which began on or after January 1, 1965."

§ 6326. Absence in connection with funerals of immediate relatives in the Armed Forces

(a) An employee of an executive agency or an individual employed by the government of the District of Columbia is entitled to not more than three days of leave without loss of, or reduction in, pay, leave to which he is otherwise entitled, credit for time or service, or performance or efficiency rating, to make arrangements for, or attend the funeral of, or memorial service for, an immediate relative who died as a result of wounds, disease, or injury incurred while serving as a member of the Armed Forces in a combat zone (as determined by the President in accordance with section 112 of the Internal Revenue Code).

(b) The Civil Service Commission is authorized to issue regulations for the administration of this section.

(c) This section shall not be considered as affecting the authority of an Executive agency, except to the extent and under the conditions covered under this section, to grant administrative leave excusing an employee from work when it is in the public interest.

(Added Pub. L. 90-588, § 1(a), Oct. 17, 1968, 82 Stat. 1151.)

REFERENCES IN TEXT

Section 112 of the Internal Revenue Code, referred to in subsec. (a), is classified to section 112 of Title 26, Internal Revenue Code.

Subpart F—Employee Relations

CHAPTER 71—POLICIES

SUBCHAPTER I—EMPLOYEE ORGANIZATIONS

Sec.
7101. Right to organize; postal employees.
7102. Right to petition Congress; employees.

SUBCHAPTER II—ANTIDISCRIMINATION IN EMPLOYMENT

7151. Policy.
7152. Marital status.
7153. Physical handicap.
7154. Other prohibitions.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 39 section 410.

SUBCHAPTER I—EMPLOYEE ORGANIZATIONS

§ 7101. Right to organize; postal employees

A postal employee may not be reduced in rank or pay or removed from the United States Postal Service because of—

(1) membership in an organization of postal employees having for its objects, among other things, improvements in the working conditions of its members, including hours of work, pay, and leave of absence, and which is not affiliated with an outside organization imposing an obligation on the employees to engage in a strike, or proposing to assist them in a strike, against the United States; or

(2) presenting, individually or as a member of a group of postal employees, a grievance to Congress or a Member of Congress.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 523; Pub. L. 91-375, § 6(c)(19), Aug. 12, 1970, 84 Stat. 776.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 652(c)	Aug. 24, 1912, ch. 389, § 6 (proviso), 37 Stat. 555. June 10, 1948, ch. 447 "Sec. 6 (c)", 62 Stat. 356.

Reference to "society, association, club" is omitted as included within the word "organization".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1970—Pub. L. 91-375 substituted "United States Postal Service" for "postal service".

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

LABOR-MANAGEMENT RELATIONS IN THE FEDERAL SERVICE

Policies governing officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees, see Ex. Ord. No. 11491, Oct. 29, 1969, 34 F.R. 17605, set out as a note under section 7301 of this title.

§ 7102. Right to petition Congress; employees

The right of employees, individually or collectively, to petition Congress or a Member of Congress, or to furnish information to either House of Congress, or to a committee or Member thereof, may not be interfered with or denied.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 523.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 652(d)	Aug. 24, 1912, ch. 389, § 6 (last sentence), 37 Stat. 555. June 10, 1948, ch. 447 "Sec. 6(d)", 62 Stat. 356.

The words "in the civil service" are omitted as unnecessary in view of the definition of "employee" in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 39 section 1002.

SUBCHAPTER II—ANTIDISCRIMINATION IN EMPLOYMENT

§ 7151. Policy

It is the policy of the United States to insure equal employment opportunities for employees without discrimination because of race, color, religion, sex, or national origin. The President shall use his existing authority to carry out this policy.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 523.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 2000 e(b) (2d proviso).	July 2, 1964, Pub. L. 88-352, § 701(b) (2d proviso), 78 Stat. 254.

The word "Federal" is omitted as unnecessary in view of the definition of "employee" in section 2105.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

DISCRIMINATION PROHIBITED IN EMPLOYMENT OF CIVILIAN PERSONNEL AT FACILITIES OPERATED BY THE DEPARTMENT OF DEFENSE IN FOREIGN COUNTRIES

Pub. L. 92-129, title I, § 106, Sept. 28, 1971, 85 Stat. 355, provided that: "Unless prohibited by treaty, no person shall be discriminated against by the Department of Defense or by any officer or employee thereof, in the employment of civilian personnel at any facility or installation operated by the Department of Defense in any foreign country because such person is a citizen of the United States or is a dependent of a member of the Armed Forces of the United States. As used in this section, the term 'facility or installation operated by the Department of Defense' shall include, but shall not be limited to, any officer's club, non-commissioned officers' club, post exchange, or commissary store."

CROSS REFERENCES

Nondiscrimination on account of age in Federal Government employment, see section 633a of Title 29, Labor.

Nondiscrimination on account of age in Federally assisted programs, see section 6101 et seq. of Title 42, The Public Health and Welfare.

§ 7152. Marital status

(a) The President may prescribe rules which shall prohibit, as nearly as conditions of good administration warrant, discrimination because of marital status in an Executive agency or in the competitive service.

(b) Regulations prescribed under any provision of this title, or under any other provision of law, granting benefits to employees, shall provide the same benefits for a married female employee and her spouse and children as are provided for a married male employee and his spouse and children.

(c) Notwithstanding any other provision of law, any provision of law providing a benefit to a male Federal employee or to his spouse or family shall be deemed to provide the same benefit to a female Federal employee or to her spouse or family.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 523; Pub. L. 92-187, § 3, Dec. 15, 1971, 85 Stat. 644.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 633 (2)6 (less 1st sentence).	July 26, 1937, ch. 522, 50 Stat. 533.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302. The section is rewritten as a general prohibition instead of specifying each of the personnel actions to which the prohibition applies. The words "in an Executive agency or in the competitive service" are added for clarity. The sentence "All Acts or parts of Acts inconsistent herewith are repealed." is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1971—Pub. L. 92-187 designated existing provisions as subsec. (a) and added subsecs. (b) and (c).

CROSS REFERENCES

President's power to grant exceptions from provisions of this section, see section 3302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

§ 7153. Physical handicap

The President may prescribe rules which shall prohibit, as nearly as conditions of good administration warrant, discrimination because of physical handicap in an Executive agency or in the competitive service with respect to a position the duties of which, in the opinion of the Civil Service Commission, can be performed efficiently by an individual with a physical handicap, except that the employment may not endanger the health or safety of the individual or others.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 523.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 633(2)9	June 10, 1948, ch. 434, 62 Stat. 351.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302. The section is rewritten as a general prohibition instead of specifying the personnel actions included in former section 633(2)9. The words "in an Executive agency or in the competitive service" are added for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

President's power to grant exceptions from provisions of this section, see section 3302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

§ 7154. Other prohibitions

[(a) Repealed. Pub. L. 90-83, § 1(44), Sept. 11, 1967, 81 Stat. 208.]

(b) In the administration of chapter 51, subchapters III and IV of chapter 53, and sections 305 and 3324 of this title, discrimination because of race, color, creed, sex, or marital status is prohibited with respect to an individual or a position held by an individual.

(c) The Civil Service Commission may prescribe regulations necessary for the administration of subsection (b) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 523; Pub. L. 90-83, § 1(44), Sept. 11, 1967, 81 Stat. 208; Pub. L. 92-392, § 8, Aug. 19, 1972, 86 Stat. 573.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 33	R.S. § 165.
(b)	5 U.S.C. 1074	Oct. 28, 1949, ch. 782, § 1103, 63 Stat. 972.

In subsection (a), the words "Executive department" are substituted for "department" as the definition of "department" applicable to this section is coextensive with the definition of "Executive department" in section 101. The words "or military department" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this subsection, which was in effect in 1949, remained applicable to the Secretaries of the military departments by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301. The words "in the discretion of" are omitted as unnecessary in view of the permissive grant of authority. The words "positions in the department" are substituted for "any of the clerkships therein authorized by law". The words "upon the same requisites and conditions" are omitted as unnecessary. The words "legal pay of the position to which appointed" are substituted for "same compensations, as are prescribed for men".

This subsection was part of title IV of the Revised Statutes. The Act of July 26, 1947, ch. 343, § 201(d), as added Aug. 10, 1949, ch. 412, § 4, 63 Stat. 579 (former 5 U.S.C. 171-1), which provides "Except to the extent inconsistent with the provisions of this Act [National Security Act of 1947], the provisions of title IV of the Revised Statutes as now or hereafter amended shall be applicable to the Department of Defense" is omitted from this title, but is not repealed.

Subsection (c) is added on authority of former sections 1072 and 1072a, which are codified in section 5115.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

This section deletes subsection (a) of 5 U.S.C. 7154 to reflect the repeal of the source statute of that subsection by Public Law 89-261, 79 Stat. 987.

Amendments

1972—Subsec. (b). Pub. L. 92-392 included reference to subchapter IV of chapter 53 of this title.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

Section Referred to in Other Sections

This section is referred to in section 2105 of this title; title 10 sections 4540, 7212, 9540.

CHAPTER 73—SUITABILITY, SECURITY, AND CONDUCT

SUBCHAPTER I—REGULATION OF CONDUCT

Sec.
7301. Presidential regulations.

SUBCHAPTER II—EMPLOYMENT LIMITATIONS

7311. Loyalty and striking.
7312. Employment and clearance; individuals removed for national security.
7313. Riots and civil disorders.

SUBCHAPTER III—POLITICAL ACTIVITIES

7321. Political contributions and services.
7322. Political use of authority or influence; prohibition.
7323. Political contributions; prohibition.
7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions.
7325. Penalties.
7326. Nonpartisan political activity permitted.
7327. Political activity permitted; employees residing in certain municipalities.

SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

[7341. Repealed.]
7342. Receipt and disposition of foreign gifts and decorations.

SUBCHAPTER V—MISCONDUCT

7351. Gifts to superiors.
7352. Excessive and habitual use of intoxicants.

Amendments

1968—Pub. L. 90-351, title V, § 1001(b), June 19, 1968, 82 Stat. 235, substituted "Employment Limitations" for "Loyalty, Security, and Striking" as the subchapter II heading and added item 7313.

1967—Pub. L. 90-83, § 1(46), Sept. 11, 1967, 81 Stat. 209, inserted "Gifts and" preceding "Decorations" in the heading for subchapter IV, deleted item 7341, and added item 7342.

Chapter Referred to in Other Sections

This chapter is referred to in section 3374 of this title; title 39 section 410; title 42 sections 2991c, 3522.

SUBCHAPTER I—REGULATION OF CONDUCT

§ 7301. Presidential regulations

The President may prescribe regulations for the conduct of employees in the executive branch.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 524.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 631 (last 16 words).	R.S. § 1753 (last 16 words).

The words "employees in the executive branch" are substituted for "persons who may receive appointments in the civil service".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Delegation of Functions

For the delegation to the Civil Service Commission of authority of the President to establish regulations for the conduct of persons in the civil service under former section 631 of this title, see section 601 of Ex. Ord. No. 11222, May 8, 1965, 30 F.R. 6469, set out as a note under section 201 of Title 18, Crimes and Criminal Procedure.

For the delegation to the Civil Service Commission of various functions vested in the President, see Ex. Ord. No. 11228, June 14, 1965, 30 F.R. 7739, set out as a note under section 301 of Title 3, The President.

Emergency Preparedness Functions

For assignment of certain emergency preparedness functions to the Civil Service Commission, see Parts 1, 28, and 30 of Ex. Ord. No. 11490, Oct. 28, 1969, 34 F.R. 17567, set out as a note under section 2292 of Title 50, Appendix, War and National Defense.

Designation of Director of the Bureau of the Budget as Member of Federal Labor Relations Council

Presidential Order of December 8, 1969, provided that:

Pursuant to the provisions of section 4 of Executive Order 11491 [set out as a note under this section], I hereby designate the Director of the Bureau of the Budget [now the Office of Management and Budget] as a member of the Federal Labor Relations Council. This order of designation shall be published in the Federal Register.

Richard Nixon.

Code of Ethics for Government Service

House Concurrent Resolution No. 175, July 11, 1958, 72 Stat. B12 provided that:

"Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that the following Code of Ethics should be adhered to by all Government employees, including officeholders:

"Code of Ethics for Government Service

"Any person in Government service should:

"1. Put loyalty to the highest moral principles and to country above loyalty to persons, party, or Government department.

"2. Uphold the Constitution, laws, and legal regulations of the United States and of all governments therein and never be a party to their evasion.

"3. Give a full day's labor for a full day's pay: giving to the performance of his duties his earnest effort and best thought.

"4. Seek to find and employ more efficient and economical ways of getting tasks accomplished.

"5. Never discriminate unfairly by the dispensing of special favors or privileges to anyone, whether for remuneration or not: and never accept, for himself or his family, favors or benefits under circumstances which might be construed by reasonable persons as influencing the performance of his governmental duties.

"6. Make no private promises of any kind binding upon the duties of office, since a Government employee has no private word which can be binding on public duty.

"7. Engage in no business with the Government, either directly or indirectly, which is inconsistent with the conscientious performance of his governmental duties.

"8. Never use any information coming to him confidentially in the performance of governmental duties as a means for making private profit.

"9. Expose corruption wherever discovered.

"10. Uphold these principles, ever conscious that public office is a public trust."

Executive Order No. 9845

Ex. Ord. No. 9845, Apr. 28, 1947, 12 F.R. 2799, which permitted Bureau of Reclamation employees to accept appointments as constables or deputy sheriffs under state or territorial laws, was revoked by Ex. Ord. No. 11408, Apr. 25, 1968, 33 F.R. 6459.

Executive Order No. 10988

Ex. Ord. No. 10988, Jan. 18, 1962, 27 F.R. 551, which related to employee-management cooperation in the Federal service, was revoked by Ex. Ord. No. 11491, Oct. 29, 1969, 34 F.R. 17605, set out as a note under this section.

Ex. Ord. No. 11491. Labor-Management Relations in the Federal Service

Ex. Ord. No. 11491, Oct. 29, 1969, 34 F.R. 17605, as amended by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319; Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901; Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743, 7391, provided:

Whereas the public interest requires high standards of employee performance and the continual development and implementation of modern and progressive work practices to facilitate improved employee performance and efficiency; and

Whereas the well-being of employees and efficient administration of the Government are benefited by providing employees an opportunity to participate in the formulation and implementation of personnel policies and practices affecting the conditions of their employment; and

Whereas the participation of employees should be improved through the maintenance of constructive and cooperative relationships between labor organizations and management officials; and

Whereas subject to law and the paramount requirements of public service, effective labor-management relations within the Federal service require a clear statement of the respective rights and obligations of labor organizations and agency management:

Now, Therefore, by virtue of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code and as President of the United States, I hereby direct that the following policies shall govern officers and agencies of the executive branch of the Government in all dealings with Federal employees and organizations representing such employees.

General Provisions

Section 1. *Policy.* (a) Each employee of the executive branch of the Federal Government has the right, freely and without fear of penalty or reprisal, to form, join, and assist a labor organization or to refrain from any such activity, and each employee shall be protected in the exercise of this right. Except as otherwise expressly provided in this Order, the right to assist a labor organization extends to participation in the management of the organization and acting for the organization in the capacity of an organization representative, including presentation of its views to officials of the executive branch, the Congress, or other appropriate authority. The head of each agency shall take the action required to assure that employees in the agency are apprised of their rights under this section and that no interference, restraint, coercion, or discrimination is practiced within his agency to encourage or discourage membership in a labor organization.

(b) Paragraph (a) of this section does not authorize participation in the management of a labor organization or acting as a representative of such an organization by a supervisor, except as provided in section 24 of this Order, or by an employee when the participation or activity would result in a conflict or apparent conflict of interest or otherwise be incompatible with law or with the official duties of the employee.

Sec. 2. *Definitions.* When used in this Order, the term—

(a) "Agency" means an executive department, a Government corporation, and an independent establishment as defined in section 104 of title 5, United States Code, except the General Accounting Office;

(b) "Employee" means an employee of an agency and an employee of a nonappropriated fund instrumentality of the United States but does not include, for the purpose of exclusive recognition or national consultation rights, a supervisor, except as provided in section 24 of this Order;

(c) "Supervisor" means an employee having authority, in the interest of an agency, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward, or discipline other employees, or responsibly to direct them, or to adjust their grievances, or effectively to recommend such action, if in connection with the foregoing the exercise of authority is not of a merely routine or clerical nature, but requires the use of independent judgment;

(d) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(e) "Labor organization" means a lawful organization of any kind in which employees participate and which exists for the purpose, in whole or in part, of dealing with agencies concerning grievances, personnel policies and practices, or other matters affecting the working conditions of their employees; but does not include an organization which—

(1) consists of management officials or supervisors, except as provided in section 24 of this Order;

(2) assists or participates in a strike against the Government of the United States or any agency thereof, or imposes a duty or obligation to conduct, assist, or participate in such a strike;

(3) advocates the overthrow of the constitutional form of government in the United States; or

(4) discriminates with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin;

(f) "Agency management" means the agency head and all management officials, supervisors, and other representatives of management having authority to act for the agency on any matters relating to the implementation of the agency labor-management relations program established under this Order;

(g) "Council" means the Federal Labor Relations Council established by this Order;

(h) "Panel" means the Federal Service Impasses Panel established by this Order; and

(i) "Assistant Secretary" means the Assistant Secretary of Labor for Labor-Management Relations.

Sec. 3. *Application.* (a) This Order applies to all employees and agencies in the executive branch, except as provided in paragraphs (b), (c) and (d) of this section.

(b) This Order (except section 22) does not apply to—

(1) the Federal Bureau of Investigation;

(2) the Central Intelligence Agency;

(3) any other agency, or office, bureau, or entity within an agency, which has as a primary function intelligence, investigative, or security work, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with national security requirements and considerations; or

(4) any office, bureau or entity within an agency which has as a primary function investigation or audit of the conduct or work of officials or employees of the agency for the purpose of ensuring honesty and integrity in the discharge of their official duties, when the head of the agency determines, in his sole judgment, that the Order cannot be applied in a manner consistent with the internal security of the agency.

(5) The Foreign Service of the United States: Department of State, United States Information Agency and Agency for International Development and its successor agency or agencies.

(c) The head of an agency may, in his sole judgment, suspend any provision of this Order (except section 22) with respect to any agency installation or activity located outside the United States, when he determines that this is necessary in the national interest, subject to the conditions he prescribes.

(d) Employees engaged in administering a labor-management relations law or this Order shall not be represented by a labor organization which also represents other groups of employees under the law or this Order, or which is affiliated directly or indirectly with an organization which represents such a group of employees.

ADMINISTRATION

SEC. 4. *Federal Labor Relations Council.* (a) There is hereby established the Federal Labor Relations Council, which consists of the Chairman of the Civil Service Commission, who shall be chairman of the Council, the Secretary of Labor, the Director of the Office of Management and Budget, and such other officials of the executive branch as the President may designate from time to time. The Civil Service Commission shall provide administrative support and services to the Council to the extent authorized by law.

(b) The Council shall administer and interpret this Order, decide major policy issues, prescribe regulations, and from time to time, report and make recommendations to the President.

(c) The Council may consider, subject to its regulations—

(1) appeals from decisions of the Assistant Secretary issued pursuant to section 6 of this order, except where, in carrying out his authority under section 11(d), he makes a negotiability determination, in which instance the party adversely affected shall have a right of appeal;

(2) appeals on negotiability issues as provided in section 11(c) of this Order;

(3) exceptions to arbitration awards; and

(4) other matters it deems appropriate to assure the effectuation of the purposes of this Order.

SEC. 5. *Federal Service Impasses Panel.* (a) There is hereby established the Federal Service Impasses Panel as an agency within the Council. The Panel consists of at least three members appointed by the President, one of whom he designates as chairman. The Council shall provide the services and staff assistance needed by the Panel.

(b) The Panel may consider negotiation impasses as provided in section 17 of this Order and may take any action it considers necessary to settle an impasse.

(c) The Panel shall prescribe regulations needed to administer its function under this Order.

SEC. 6. *Assistant Secretary of Labor for Labor-Management Relations.*

(a) The Assistant Secretary shall—

(1) decide questions as to the appropriate unit for the purpose of exclusive recognition and related issues submitted for his consideration;

(2) supervise elections to determine whether a labor organization is the choice of a majority of the employees in an appropriate unit as their exclusive representative, and certify the results;

(3) decide questions as to the eligibility of labor organizations for national consultation rights under criteria prescribed by the Council;

(4) decide unfair labor practice complaints (including those where an alleged unilateral act by one of the parties requires an initial negotiability determination) and alleged violations of the standards of conduct for labor organizations; and

(5) decide questions as to whether a grievance is subject to a negotiated grievance procedure or subject to arbitration under an agreement as provided in section 13(d) of this order.

(b) In any matters arising under paragraph (a) of this section, the Assistant Secretary may require an agency or a labor organization to cease and desist from violations of this Order and require it to take such affirmative action as he considers appropriate to effectuate the policies of this Order.

(c) In performing the duties imposed on him by this section, the Assistant Secretary may request and use the services and assistance of employees of other agencies in accordance with section 1 of the Act of March 4, 1915 (38 Stat. 1084, as amended; 31 U.S.C. § 686).

(d) The Assistant Secretary shall prescribe regulations needed to administer his functions under this Order.

(e) If any matters arising under paragraph (a) of this section involve the Department of Labor, the duties of the Assistant Secretary described in paragraphs (a) and (b) of this section shall be performed by a member of the Civil Service Commission designated by the Chairman of the Commission.

RECOGNITION

SEC. 7. *Recognition in general.* (a) An agency shall accord exclusive recognition or national consultation rights at the request of a labor organization which meets the requirements for the recognition or consultation rights under this Order.

(b) A labor organization seeking recognition shall submit to the agency a roster of its officers and representatives, a copy of its constitution and by-laws, and a statement of its objectives.

(c) When recognition of a labor organization has been accorded, the recognition continues as long as the organization continues to meet the requirements of this Order applicable to that recognition, except that this section does not require an election to determine whether an organization should become, or continue to be recognized as, exclusive representative of the employees in any unit or subdivision thereof within 12 months after a prior valid election with respect to such unit.

(d) Recognition of a labor organization does not—

(1) preclude an employee, regardless of whether he is in a unit of exclusive recognition, from exercising grievance or appelate rights established by law or regulation, or from choosing his own representative in a grievance or appelate action, except when the grievance is covered under a negotiated procedure as provided in section 13;

(2) preclude or restrict consultations and dealings between an agency and a veterans organization with respect to matters of particular interest to employees with veterans preference; or

(3) preclude an agency from consulting or dealing with a religious, social, fraternal, professional or other lawful association, not qualified as a labor organization, with respect to matters or policies which involve individual members of the association or are of particular applicability to it or its members. Consultations and dealings under subparagraph (3) of this paragraph shall be so limited that they do not assume the character of formal consultation on matters of

general employee-management policy covering employees in that unit or extend to areas where recognition of the interests of one employee group may result in discrimination against or injury to the interests of other employees.

(e) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(f) Informal recognition or formal recognition shall not be accorded.

Sec. 8. [Revoked by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319.]

Sec. 9. *National consultation rights.* (a) An agency shall accord nation consultation rights to a labor organization which qualifies under criteria established by the Federal Labor Relations Council as the representative of a substantial number of employees of the agency. National consultation rights shall not be accorded for any unit where a labor organization already holds exclusive recognition at the national level for that unit. The granting of national consultation rights does not preclude an agency from appropriate dealings at the national level with other organizations on matters affecting their members. An agency shall terminate national consultation rights when the labor organization ceases to qualify under the established criteria.

(b) When a labor organization has been accorded national consultation rights, the agency, through appropriate officials, shall notify representatives of the organization of proposed substantive changes in personnel policies that affect employees it represents and provide an opportunity for the organization to comment on the proposed changes. The labor organization may suggest changes in the agency's personnel policies and have its views carefully considered. It may consult in person at reasonable times, on request, with appropriate officials on personnel policy matters, and at all times present its views thereon in writing. An agency is not required to consult with a labor organization on any matter on which it would not be required to meet and confer if the organization were entitled to exclusive recognition.

(c) Questions as to the eligibility of labor organizations for national consultation rights may be referred to the Assistant Secretary for decision.

Sec. 10. *Exclusive recognition.* (a) An agency shall accord exclusive recognition to a labor organization when the organization has been selected, in a secret ballot election, by a majority of the employees in an appropriate unit as their representative; provided that this section shall not preclude an agency from according exclusive recognition to a labor organization, without an election, where the appropriate unit is established through the consolidation of existing exclusively recognized units represented by that organization.

(b) A unit may be established on a plant or installation, craft, functional, or other basis which will ensure a clear and identifiable community of interest among the employees concerned and will promote effective dealings and efficiency of agency operations. A unit shall not be established solely on the basis of the extent to which employees in the proposed unit have organized, nor shall a unit be established if it includes—

(1) any management official or supervisor, except as provided in section 24;

(2) an employee engaged in Federal personnel work in other than a purely clerical capacity; or

(3) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(4) both professional and nonprofessional employees, unless a majority of the professional employees vote for inclusion in the unit. Questions as to the appropriate unit and related issues may be referred to the Assistant Secretary for decision.

(c) [Revoked by Ex. Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

(d) All elections shall be conducted under the supervision of the Assistant Secretary, or persons designated by him, and shall be by secret ballot. Each employee eligible to vote shall be provided the opportunity to choose the labor organization he wishes to represent him, from among those on the ballot, or "no union", except as provided in subparagraph (4) of this paragraph. Elections may be held to determine whether—

(1) a labor organization should be recognized as the exclusive representative of employees in a unit;

(2) a labor organization should replace another labor organization as the exclusive representative;

(3) a labor organization should cease to be the exclusive representative; or

(4) a labor organization should be recognized as the exclusive representative of employees in a unit composed of employees in units currently represented by that labor organization or continue to be recognized in the existing separate units.

(e) When a labor organization has been accorded exclusive recognition, it is the exclusive representative of employees in the unit and is entitled to act for and to negotiate agreements covering all employees in the unit. It is responsible for representing the interests of all employees in the unit without discrimination and without regard to labor organization membership. The labor organization shall be given the opportunity to be represented at formal discussions between management and employees or employee representatives concerning grievances, personnel policies and practices, or other matters affecting general working conditions of employees in the unit.

AGREEMENTS

Sec. 11. *Negotiation of agreements.* (a) An agency and a labor organization that has been accorded exclusive recognition, through appropriate representatives, shall meet at reasonable times and confer in good faith with respect to personnel policies and practices and matters affecting working conditions, so far as may be appropriate under applicable laws and regulations, including policies set forth in the Federal Personnel Manual; published agency policies and regulations for which a compelling need exists under criteria established by the Federal Labor Relations Council and which are issued at the agency headquarters level or at the level of a primary national subdivision; a national or other controlling agreement at a higher level in the agency; and this order. They may negotiate an agreement, or any question arising thereunder; determine appropriate techniques, consistent with section 17 of this order, to assist in such negotiation; and execute a written agreement or memorandum of understanding.

(b) In prescribing regulations relating to personnel policies and practices and working conditions, an agency shall have due regard for the obligation imposed by paragraph (a) of this section. However, the obligation to meet and confer does not include matters with respect to the mission of an agency; its budget; its organization; the number of employees; and the numbers, types, and grades of positions or employees assigned to an organizational unit, work project or tour of duty; the technology of performing its work; or its internal security practices. This does not preclude the parties from negotiating agreements providing appropriate arrangements for employees adversely affected by the impact of realignment of work forces or technological change.

(c) If, in connection with negotiations, an issue develops as to whether a proposal is contrary to law, regulation, controlling agreement, or this order and therefore not negotiable, it shall be resolved as follows:

(1) An issue which involves interpretation of a controlling agreement at a higher agency level is resolved under the procedures of the controlling agreement, or, if none, under agency regulations;

(2) An issue other than as described in subparagraph (1) of this paragraph which arises at a local level may be referred by either party to the head of the agency for determination;

(3) An agency head's determination as to the interpretation of the agency's regulations with respect to a proposal is final;

(4) A labor organization may appeal to the Council for a decision when—

(i) it disagrees with an agency head's determination that a proposal would violate applicable law, regulation of appropriate authority outside the agency, or this order, or

(ii) it believes that an agency's regulations, as interpreted by the agency head, violate applicable law, regulation of appropriate authority outside the agency, or this order, or are not otherwise applicable to bar negotiations under paragraph (a) of this section.

(d) If, as the result of an alleged unilateral change in, or addition to, personnel policies and practices or matters affecting working conditions, the acting party is charged with a refusal to consult, confer or negotiate as required under this order, the Assistant Secretary may, in the exercise of his authority under section 6(a) (4) of the order, make those determinations of negotiability as may be necessary to resolve the merits of the alleged unfair labor practice. In such cases the party subject to an adverse ruling may appeal the Assistant Secretary's negotiability determination to the Council.

SEC. 12. *Basic provisions of agreements.* Each agreement between an agency and a labor organization is subject to the following requirements—

(a) in the administration of all matters covered by the agreement, officials and employees are governed by existing or future laws and the regulations of appropriate authorities, including policies set forth in the Federal Personnel Manual; by published agency policies and regulations in existence at the time the agreement was approved; and by subsequently published agency policies and regulations required by law or by the regulations of appropriate authorities, or authorized by the terms of a controlling agreement at a higher agency level;

(b) management officials of the agency retain the right, in accordance with applicable laws and regulations—

(1) to direct employees of the agency;

(2) to hire, promote, transfer, assign, and retain employees in positions within the agency, and to suspend, demote, discharge, or take other disciplinary action against employees;

(3) to relieve employees from duties because of lack of work or for other legitimate reasons;

(4) to maintain the efficiency of the Government operations entrusted to them;

(5) to determine the methods, means, and personnel by which such operations are to be conducted; and

(6) to take whatever actions may be necessary to carry out the mission of the agency in situations of emergency; and

(c) nothing in the agreement shall require an employee to become or to remain a member of a labor organization, or to pay money to the organization except pursuant to a voluntary written authorization by a member for the payment of dues through payroll deductions. The requirements of this section shall be expressly stated in the initial or basic agreement and apply to all supplemental, implementing, subsidiary, or informal agreements between the agency and the organization.

SEC. 13. *Grievance and arbitration procedures.* (a) An agreement between an agency and a labor organization shall provide a procedure, applicable only to the unit, for the consideration of grievances. The coverage and scope of the procedure shall be negotiated by the parties to the agreement with the exception that it may not cover matters for which a statutory appeal procedure exists and so long as it does not otherwise conflict with statute or this order. It shall be the exclusive procedure available to the parties and the employees in the unit for resolving grievances which fall within its coverage. However, any employee or group of employees in the unit may present such grievances to the agency and have them adjusted, without the intervention of the exclusive representative, as long as the adjustment is not inconsistent with the terms of the agreement and the exclusive representative has been given opportunity to be present at the adjustment.

(b) A negotiated procedure may provide for arbitration of grievances. Arbitration may be invoked only by the agency or the exclusive representative. Either party may file exceptions to an arbitrator's award with the Council, under regulations prescribed by the Council.

(c) [Revoked.]

(d) Questions that cannot be resolved by the parties as to whether or not a grievance is on a matter for which a statutory appeal procedure exists, shall be referred to the Assistant Secretary for decision. Other questions as to whether or not a grievance is on a matter subject to the grievance procedure in an existing agreement, or is subject to arbitration under that agreement, may by agreement of the parties be submitted to arbitration or may be referred to the Assistant Secretary for decision.

(e) [Revoked.]

SEC. 14. [Revoked by Ex. Ord. No. 11616, Aug. 26, 1971, 36 F.R. 17319.]

SEC. 15. *Approval of agreements.* An agreement with a labor organization as the exclusive representative of employees in a unit is subject to the approval of the head of the agency or an official designated by him. An agreement shall be approved within forty-five days from the date of its execution if it conforms to applicable laws, the order, existing published agency policies and regulations (unless the agency has granted an exception to a policy or regulation) and regulations of other appropriate authorities. An agreement which has not been approved or disapproved within forty-five days from the date of its execution shall go into effect without the required approval of the agency head and shall be binding on the parties subject to the provisions of law, the order and the regulations of appropriate authorities outside the agency. A local agreement subject to a national or other controlling agreement at a higher level shall be approved under the procedures of the controlling agreement, or, if none, under agency regulations.

NEGOTIATION DISPUTES AND IMPASSES

SEC. 16. *Negotiation disputes.* The Federal Mediation and Conciliation Service shall provide services and assistance to Federal agencies and labor organizations in the resolution of negotiation disputes. The Service shall determine under what circumstances and in what manner it shall proffer its services.

SEC. 17. *Negotiation impasses.* When voluntary arrangements, including the services of the Federal Mediation and Conciliation Service or other third-party mediation, fail to resolve a negotiation impasse, either party may request the Federal Service Impasses Panel to consider the matter. The Panel, in its discretion and under the regulations it prescribes, may consider the matter and may recommend procedures to the parties for the resolution of the impasse or may settle the impasse by appropriate action. Arbitration or third-party fact finding with recommendations to assist in the resolution of an impasse may be used by the parties only when authorized or directed by the Panel.

CONDUCT OF LABOR ORGANIZATIONS AND MANAGEMENT

SEC. 18. *Standards of conduct for labor organizations.*

(a) An agency shall accord recognition only to a labor organization that is free from corrupt influences and influences opposed to basic democratic principles. Except as provided in paragraph (b) of this section, an organization is not required to prove that it has the required freedom when it is subject to governing requirements adopted by the organization or by a national or international labor organization or federation of labor organizations with which it is affiliated or in which it participates, containing explicit and detailed provisions to which it subscribes calling for—

(1) the maintenance of democratic procedures and practices, including provisions for periodic elections to be conducted subject to recognized safeguards and

provisions defining and securing the right of individual members to participation in the affairs of the organization, to fair and equal treatment under the governing rules of the organization, and to fair process in disciplinary proceedings;

(2) the exclusion from office in the organization of persons affiliated with Communist or other totalitarian movements and persons identified with corrupt influences;

(3) the prohibition of business or financial interests on the part of organization officers and agents which conflict with their duty to the organization and its members; and

(4) the maintenance of fiscal integrity in the conduct of the affairs of the organization, including provision for accounting and financial controls and regular financial reports or summaries to be made available to members.

(b) Notwithstanding the fact that a labor organization has adopted or subscribed to standards of conduct as provided in paragraph (a) of this section, the organization is required to furnish evidence of its freedom from corrupt influences or influences opposed to basic democratic principles when there is reasonable cause to believe that—

(1) the organization has been suspended or expelled from or is subject to other sanction by a parent labor organization or federation of organizations with which it had been affiliated because it has demonstrated an unwillingness or inability to comply with governing requirements comparable in purpose to those required by paragraph (a) of this section; or

(2) the organization is in fact subject to influences that would preclude recognition under this Order.

(c) A labor organization which has or seeks recognition as a representative of employees under this Order shall file financial and other reports, provide for bonding of officials and employees of the organization, and comply with trusteeship and election standards.

(d) The Assistant Secretary shall prescribe the regulations needed to effectuate this section. These regulations shall conform generally to the principles applied to unions in the private sector. Complaints of violations of this section shall be filed with the Assistant Secretary.

SEC. 19. *Unfair labor practices.* (a) Agency management shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of the rights assured by this Order;

(2) encourage or discourage membership in a labor organization by discrimination in regard to hiring, tenure, promotion, or other conditions of employment;

(3) sponsor, control, or otherwise assist a labor organization, except that an agency may furnish customary and routine services and facilities under section 23 of this Order when consistent with the best interests of the agency, its employees, and the organization, and when the services and facilities are furnished, if requested, on an impartial basis to organizations having equivalent status;

(4) discipline or otherwise discriminate against an employee because he has filed a complaint or given testimony under this Order;

(5) refuse to accord appropriate recognition to a labor organization qualified for such recognition; or

(6) refuse to consult, confer, or negotiate with a labor organization as required by this Order.

(b) A labor organization shall not—

(1) interfere with, restrain, or coerce an employee in the exercise of his rights assured by this Order;

(2) attempt to induce agency management to coerce an employee in the exercise of his rights under this Order;

(3) coerce, attempt to coerce, or discipline, fine, or take other economic sanction against a member of the organization as punishment or reprisal for, or for the purpose of hindering or impeding his work performance, his productivity, or the discharge of his duties owed as an officer or employee of the United States;

(4) call or engage in a strike, work stoppage, or slowdown; picket an agency in a labor-management dispute; or condone any such activity by failing to take affirmative action to prevent or stop it;

(5) discriminate against an employee with regard to the terms or conditions of membership because of race, color, creed, sex, age, or national origin; or

(6) refuse to consult, confer, or negotiate with an agency as required by this Order.

(c) A labor organization which is accorded exclusive recognition shall not deny membership to any employee in the appropriate unit except for failure to meet reasonable occupational standards uniformly required for admission, or for failure to tender initiation fees and dues uniformly required as a condition of acquiring and retaining membership. This paragraph does not preclude a labor organization from enforcing discipline in accordance with procedures under its constitution or by-laws which conform to the requirements of this Order.

(d) Issues which can properly be raised under an appeals procedure may not be raised under this section. Issues which can be raised under a grievance procedure may, in the discretion of the aggrieved party, be raised under that procedure or the complaint procedure under this section, but not under both procedures. Appeals or grievance decisions shall not be construed as unfair labor practice decisions under this Order nor as precedent for such decisions. All complaints under this section that cannot be resolved by the parties shall be filed with the Assistant Secretary.

MISCELLANEOUS PROVISIONS

SEC. 20. *Use of official time.* Solicitation of membership or dues, and other internal business of a labor organization, shall be conducted during the non-duty hours of the employees concerned. Employees who represent a recognized labor organization shall not be on official time when negotiating an agreement with agency management, except to the extent that the negotiating parties agree to other arrangements which may provide that the agency will either authorize official time for up to 40 hours or authorize up to one-half the time spent in negotiations during regular working hours, for a reasonable number of employees, which number normally shall not exceed the number of management representatives.

SEC. 21. *Allotment of dues.* (a) When a labor organization holds formal or exclusive recognition, and the agency and the organization agree in writing to this course of action, an agency may deduct the regular and periodic dues of the organization from the pay of members of the organization in the unit of recognition who make a voluntary allotment for that purpose, and shall recover the costs of making the deductions. Such an allotment is subject to the regulations of the Civil Service Commission, which shall include provision for the employee to revoke his authorization at stated six-month intervals. Such an allotment terminates when—

(1) the dues withholding agreement between the agency and the labor organization is terminated or ceases to be applicable to the employee; or

(2) the employee has been suspended or expelled from the labor organization.

(b) [Revoked by Ex Ord. No. 11838, Feb. 6, 1975, 40 F.R. 5743.]

SEC. 22. *Adverse action appeals.* The head of each agency, in accordance with the provisions of this Order and regulations prescribed by the Civil Service Commission, shall extend to all employees in the competitive civil service rights identical in adverse action cases to those provided preference eligibles under sections 7511-7512 of title 5 of the United States Code. Each employee in the competitive service shall have the right to appeal to the Civil Service Commission from an adverse decision of the administrative officer so acting, such appeal to be processed in an identical manner to that provided for appeals under section 7701 of title 5 of the United States Code. Any recommendation by the Civil Service Commission submitted to the head of an agency on the basis of an appeal by an employee in the competitive service shall be complied with by the head of the agency.

SEC. 23. *Agency implementation.* No later than April 1, 1970, each agency shall issue appropriate policies and regulations consistent with this Order for its implementation. This includes but is not limited to a clear statement of the rights of its employees under this Order; procedures with respect to recognition of labor organizations, determination of appropriate units, consultation and negotiation with labor organizations, approval of agreements, mediation, and impasse resolution; policies with respect to the use of agency facilities by labor organizations; and policies and practices regarding consultation with other organizations and associations and individual employees. Insofar as practicable, agencies shall consult with representatives of labor organizations in the formulation of these policies and regulations.

SEC. 24. *Savings clauses.* (a) This Order does not preclude—

(1) the renewal or continuation of a lawful agreement between an agency and a representative of its employees entered into before the effective date of Executive Order No. 10988 (January 17, 1962); or

(2) the renewal, continuation, or initial according of recognition for units of management officials or supervisors represented by labor organizations which historically or traditionally represent the management officials or supervisors in private industry and which hold exclusive recognition for units of such officials or supervisors in any agency on the date of this Order.

(b) All grants of informal recognition under Executive Order No. 10988 terminate on July 1, 1970.

(c) All grants of formal recognition under Executive Order No. 10988 terminate under regulations which the Federal Labor Relations Council shall issue before October 1, 1970.

(d) By not later than December 31, 1970, all supervisors shall be excluded from units of formal and exclusive recognition and from coverage by negotiated agreements, except as provided in paragraph (a) of this section.

SEC. 25. *Guidance, training, review and information.* (a) The Civil Service Commission, in conjunction with the Office of Management and Budget, shall establish and maintain a program for the policy guidance of agencies on labor-management relations in the Federal service and periodically review the implementation of these policies. The Civil Service Commission shall continuously review the operation of the Federal labor-management relations program to assist in assuring adherence to its provisions and merit system requirements; implement technical advice and information programs for the agencies; assist in the development of programs for training agency personnel and management officials in labor-management relations; and, from time to time, report to the Council on the state of the program with any recommendations for its improvement.

(b) The Department of Labor and the Civil Service Commission shall develop programs for the collection and dissemination of information appropriate to the needs of agencies, organizations and the public.

SEC. 26. *Effective date.* This Order is effective on January 1, 1970 except sections 7(f) and 8 which are effective immediately. Effective January 1, 1970, Executive Order No. 10988 and the President's Memorandum of May 21, 1963, entitled Standards of Conduct for Employee Organizations and Code of Fair Labor Practices, are revoked.

RICHARD NIXON.

EMPLOYEE-MANAGEMENT RELATIONS IN THE FOREIGN SERVICE

For provisions governing employee-management relations in the Foreign Service, see Ex. Ord. No. 11636, Dec. 17, 1971, 36 F.R. 24901, set out as a note under section 801 of Title 22, Foreign Relations and Intercourse.

SUBCHAPTER II—EMPLOYMENT LIMITATIONS

AMENDMENTS

1968—Pub. L. 90-351, title V, § 1001(c), June 19, 1968, 82 Stat. 235, substituted "Employment Limitations" for "Loyalty, Security, and Striking" in the subchapter heading.

§ 7311. Loyalty and striking

An individual may not accept or hold a position in the Government of the United States or the government of the District of Columbia if he—

(1) advocates the overthrow of our constitutional form of government;

(2) is a member of an organization that he knows advocates the overthrow of our constitutional form of government;

(3) participates in a strike, or asserts the right to strike, against the Government of the United States or the government of the District of Columbia; or

(4) is a member of an organization of employees of the Government of the United States or of individuals employed by the government of the District of Columbia that he knows asserts the right to strike against the Government of the United States or the government of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 524.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118p	Aug. 9, 1955, ch. 690, § 1, 69 Stat. 624.
....	[Uncodified]	June 29, 1956, ch. 479, § 3, (as applicable to the Act of Aug. 9, 1955, ch. 690, § 1, 69 Stat. 624), 70 Stat. 453.

The word "position" is coextensive with and is substituted for "office or employment".

In paragraphs (1) and (2), the words "in the United States" in former section 118p(1), (2) are omitted as unnecessary in view of the reference to "our constitutional form of government".

In paragraphs (3) and (4), the reference to the "government of the District of Columbia" is added on authority of the Act of June 29, 1956, in order to make these paragraphs meaningful with respect to individuals employed by the government of the District of Columbia. The words "From and after July 1, 1956", appearing in the Act of June 29, 1956, are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EX. ORD. NO. 10450. SECURITY REQUIREMENTS FOR GOVERNMENT EMPLOYEES

Ex. Ord. No. 10450, Apr. 27, 1953, 18 F.R. 2489, as amended by Ex. Ord. No. 10491, Oct. 15, 1953, 18 F.R. 6583; Ex. Ord. No. 10531, May 27, 1954, 19 F.R. 3069; Ex. Ord. No. 10548, Aug 3, 1954, 19 F.R. 4871; Ex. Ord. No. 10550, Aug. 6, 1954, 19 F.R. 4981; Ex. Ord. No. 11605, July 2, 1971, 36 F.R. 12831; Ex. Ord. No. 11785, June 4, 1974, 39 F.R. 20053, provided:

WHEREAS the interests of the national security require that all persons privileged to be employed in the departments and agencies of the Government shall be reliable, trustworthy, of good conduct and character, and of complete and unswerving loyalty to the United States; and

WHEREAS the American tradition that all persons should receive fair, impartial, and equitable treatment at the hands of the Government requires that all persons seeking the privilege of employment or privileged to be employed in the departments and agencies of the Government be adjudged by mutually consistent and no less than minimum standards and procedures among the departments and agencies governing the employment and retention in employment of persons in the Federal service:

Now, Therefore, by virtue of the authority vested in me by the Constitution and statutes of the United States, including section 1753 of the Revised Statutes of the United States (5 U.S.C. 631) [now sections 3301 and 7301 of this title]; the Civil Service Act of 1883 (22 Stat. 403; 5 U.S.C. 632, et seq.) [now section 1101 et seq. of this title]; section 9A of the act of August 2, 1939, 53 Stat. 1148 (5 U.S.C. 118j) [now sections 3333 and 7311 of this title]; and the act of August 26, 1950, 64 Stat. 476 (5 U.S.C. 22-1, et seq.) [now section 7501 et seq. of this title], and as President of the United States, and deeming such action necessary in the best interests of the national security it is hereby ordered as follows:

Section 1. In addition to the departments and agencies specified in the said act of August 26, 1950, and Executive Order No. 10237 of April 26, 1951 the provisions of that act shall apply to all other departments and agencies of the Government.

Sec. 2. The head of each department and agency of the Government shall be responsible for establishing and maintaining within his department or agency an effective program to insure that the employment and retention in employment of any civilian officer or employee within the department or agency is clearly consistent with the interests of the national security.

Sec. 3. (a) The appointment of each civilian officer or employee in any department or agency of the Government shall be made subject to investigation. The scope of the investigation shall be determined in the first instance according to the degree of adverse effect the occupant of the position sought to be filled could bring about, by virtue of the nature of the position, on the national security, but in no event shall the investigation include less than a national agency check (including a check of the fingerprint files of the Federal Bureau of Investigation), and written inquiries to appropriate local law enforcement agencies, former employers and supervisors, references, and schools attended by the person under investigation: Provided, that upon request of the head of the department or agency concerned, the Civil Service Commission may, in its discretion, authorize such less investigation as may meet the requirements of the national security with respect to per-diem, intermittent, temporary, or seasonal employees, or aliens employed outside the United States. Should there develop at any stage of investigation information indicating that the employment of any such person may not be clearly consistent with the interests of the national security, there shall be conducted with respect to such person a full field investigation, or such less investigation as shall be sufficient to enable the head of the department or agency concerned to determine whether retention of such person is clearly consistent with the interests of the national security.

(b) The head of any department or agency shall designate, or cause to be designated, any position within his department or agency the occupant of which could bring about, by virtue of the nature of the position, a material adverse effect on the national security as a sensitive position. Any position so designated shall be filled or occupied only by a person with respect to whom a full field investigation has been conducted: Provided, that a person occupying a sensitive position at the time it is designated as such may continue to occupy such position pending the completion of a full field investigation, subject to the other provisions of this order: And provided further, that in case of emergency a sensitive position may be filled for a limited period by a person with respect to whom a full field pre-appointment investigation has not been completed if the head of the department or agency concerned finds that such action is necessary in the national interest, which finding shall be made a part of the records of such department or agency.

Sec. 4. The head of each department and agency shall review, or cause to be reviewed, the cases of all civilian officers and employees with respect to whom there has been conducted a full field investigation under Executive Order No. 9835 of March 21, 1947, and, after such further investigation as may be appropriate, shall re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, such of those cases as have not been adjudicated under a security standard commensurate with that established under this order.

Sec. 5. Whenever there is developed or received by any department or agency information indicating that the retention in employment of any officer or employee of the Government may not be clearly consistent with the interests of the national security, such information shall be forwarded to the head of the employing department or agency or his representative, who, after such investigation as may be appropriate, shall review, or cause to be reviewed, and, where necessary, re-adjudicate, or cause to be re-adjudicated, in accordance with the said act of August 26, 1950, the case of such officer or employee.

Sec. 6. Should there develop at any stage of investigation information indicating that the employment of any officer or employees of the Government may not be clearly consistent with the interests of the national security, the head of the department or agency concerned or his representative shall immediately suspend the employment of the person involved if he deems such suspension necessary in the interests of the national security and, following such investigation and review as he deems necessary the head of the department or agency concerned shall terminate the employment of such suspended officer in the interests of the national security, or employee whenever he shall determine such termination necessary or advisable in accordance with the said act of August 26, 1950.

Sec. 7. Any person whose employment is suspended or terminated under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950, or pursuant to the said Executive Order No. 9835 or any other security or loyalty program relating to officers or employees of the Government, shall not be reinstated or restored to duty or reemployed in the same department or agency and shall not be reemployed in any other department or agency, unless the head of the department or agency concerned finds that such reinstatement, restoration, or reemployment is clearly consistent with the interests of the national security, which finding shall be made a part of the records of such department or agency: Provided, that no person whose employment has been terminated under such authority thereafter may be employed by any other department or agency except after a determination by the Civil Service Commission that such person is eligible for such employment.

Sec. 8. (a) The investigations conducted pursuant to this order shall be designed to develop information as to whether the employment or retention in employment in the Federal service of the person being investigated is clearly consistent with the interests of the national security. Such information shall relate, but shall not be limited, to the following:

(1) Depending on the relation of the Government employment to the national security:

(i) Any behavior, activities, or associations which tend to show that the individual is not reliable or trustworthy.

(ii) Any deliberate misrepresentations, falsifications or omissions of material facts.

(iii) Any criminal, infamous, dishonest, immoral, or notoriously disgraceful conduct, habitual use of intoxicants to excess, drug addiction or sexual perversion.

(iv) Any illness, including any mental condition, of a nature which in the opinion of competent medical authority may cause significant defect in the judgment or reliability of the employee, with due regard to the transient or continuing effect of the illness and the medical findings in such case.

(v) Any facts which furnish reason to believe that the individual may be subjected to coercion, influence, or pressure which may cause him to act contrary to the best interests of the national security.

(2) Commission of any act of sabotage, espionage, treason, or sedition, or attempts thereat or preparation therefor, or conspiring with, or aiding or abetting another to commit or attempt to commit any act of sabotage, espionage, treason, or sedition.

(3) Establishing or continuing a sympathetic association with a saboteur, spy, traitor, seditionist, anarchist, or revolutionist, or with any espionage or other secret agent or representative of a foreign nation, or any representative of a foreign nation whose interests may be inimical to the interests of the United States, or with any person who advocates the use of force or violence to overthrow the government of the United States or the alteration of the form of government of the United States by unconstitutional means.

(4) Advocacy of use of force or violence to overthrow the government of the United States, or of the alteration of the form of government of the United States by unconsitutional means.

(5) Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means.

(6) Intentional unauthorized disclosure to any person of security information, or of other information disclosure of which is prohibited by law, or willful violation or disregard of security regulations.

(7) Performing or attempting to perform his duties, or otherwise acting, so as to serve the interests of another government in preference to the interests of the United States.

(8) Refusal by the individual, upon the ground of constitutional privilege against self-incrimination, to testify before a congressional committee regarding charges of his alleged disloyalty or other misconduct.

(b) The investigation of persons entering or employed in the competitive service shall primarily be the responsibility of the Civil Service Commission, except in cases in which the head of a department or agency assumes that responsibility pursuant to law or by agreement with the Commission. The Commission shall furnish a full investigative report to the department or agency concerned.

(c) The investigation of persons (including consultants, however employed), entering employment of, or employed by, the Government other than in the competitive service shall primarily be the responsibility of the employing department or agency. Departments and agencies without investigative facilities may use the investigative facilities of the Civil Service Commission, and other departments and agencies may use such facilities under agreement with the Commission.

(d) There shall be referred promptly to the Federal Bureau of Investigation all investigations being conducted by any other agencies which develop information indicating that an individual may have been subjected to coercion, influence, or pressure to act contrary to the interests of the national security, or information relating to any of the matters described in subdivisions (2) through (8) of subsection (a) of this section. In cases so referred to it, the Federal Bureau of Investigation shall make a full field investigation.

SEC. 9. (a) There shall be established and maintained in the Civil Service Commission a security-investigations index covering all persons as to whom security investigations have been conducted by any department or agency of the Government under this order. The central index established and maintained by the Commission under Executive Order No. 9835 of March 21, 1947, shall be made a part of the security-investigations index. The security-investigations index shall contain the name of each person investigated, adequate identifying information concerning each such person, and a reference to each department and agency which has conducted an investigation concerning the person involved or has suspended or terminated the employment of such person under the authority granted to heads of departments and agencies by or in accordance with the said act of August 26, 1950.

(b) The heads of all departments and agencies shall furnish promptly to the Civil Service Commission information appropriate for the establishment and maintenance of the security-investigations index.

(c) The reports and other investigative material and information developed by investigations conducted pursuant to any statute, order, or program described in section 7 of this order shall remain the property of the investigative agencies conducting the investigations, but may, subject to considerations of the national security, be retained by the department or agency concerned. Such reports and other investigative material and information shall be maintained in confidence, and no access shall be given thereto except with the consent of the investigative agency concerned, to other departments and agencies conducting security programs under the authority granted by or in accordance with the said act of August 26, 1950, as may be required for the efficient conduct of Government business.

SEC. 10. Nothing in this order shall be construed as eliminating or modifying in any way the requirement for any investigation or any determination as to security which may be required by law.

SEC. 11. On and after the effective date of this order the Loyalty Review Board established by Executive Order No. 9835 of March 21, 1947, shall not accept agency findings for review, upon appeal or otherwise. Appeals pending before the Loyalty Review Board on such date shall be heard to final determination in accordance with the provisions of the said Executive Order No. 9835, as amended. Agency determinations favorable to the officer or employee concerned pending before the Loyalty Review Board on such date shall be acted upon by such Board, and whenever the Board is not in agreement with such favorable determination the case shall be remanded to the department or agency concerned for determination in accordance with the standards and procedures established pursuant to this order. Cases pending before the regional loyalty boards of the Civil Service Commission on which hearings have not been initiated on such date shall be referred to the department or agency concerned. Cases being heard by regional loyalty boards on such date shall be heard to conclusion, and the determination of the board shall be forwarded to the head of the department or agency concerned: Provided, that if no specific department or agency is involved, the case shall be dismissed without prejudice to the applicant. Investigations pending in the Federal Bureau of Investigation or the Civil Service Commission on such date shall be completed, and the reports thereon shall be made to the appropriate department or agency.

SEC. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked.

SEC. 13. The Attorney General is requested to render to the heads of departments and agencies such advice as may be requisite to enable them to establish and maintain an appropriate employee-security program.

SEC. 14. (a) The Civil Service Commission, with the continuing advice and collaboration of representatives of such departments and agencies as the National Security Council may designate, shall make a continuing study of the manner in which this order is being implemented by the departments and agencies of the Government for the purpose of determining:

(1) Deficiencies in the department and agency security programs established under this order which are

inconsistent with the interests of or directly or indirectly weaken, the national security.

(2) Tendencies in such programs to deny to individual employees fair, impartial and equitable treatment at the hands of the Government, or rights under the Constitution and laws of the United States or this order.

Information affecting any department or agency developed or received during the course of such continuing study shall be furnished immediately to the head of the department or agency concerned. The Civil Service Commission shall report to the National Security Council, at least semiannually, on the results of such study, shall recommend means to correct any such deficiences or tendencies, and shall inform the National Security Council immediately of any deficiency which is deemed to be of major importance.

(b) All departments and agencies of the Government are directed to cooperate with the Civil Service Commission to facilitate the accomplishment of the responsibilities assigned to it by subsection (a) of this section.

(c) To assist the Civil Service Commission in discharging its responsibilities under this order, the head of each department and agency shall, as soon as possible and in no event later than ninety days after receipt of the final investigative report on a civilian officer or employee subject to a full field investigation under the provisions of this order, advise the Commission as to the action taken with respect to such officer or employee. The information furnished by the heads of departments and agencies pursuant to this section shall be included in the reports which the Civil Service Commission is required to submit to the National Security Council in accordance with subsection (a) of this section. Such reports shall set forth any deficiencies on the part of the heads of departments and agencies in taking timely action under this order, and shall mention specifically any instances of noncompliance with this subsection.

SEC. 15. This order shall become effective thirty days after the date hereof.

EXECUTIVE ORDER NO. 11605

Ex. Ord. No. 11605, July 2, 1971, 36 F.R. 12831, which amended Ex. Ord. No. 10450, Apr. 27, 1953, 18 F.R. 2489, set out as a note under this section, which related to security requirements for government employees, was revoked by Ex. Ord. No. 11785, June 4, 1974, 39 F.R. 20053, set out as a note under this section.

EX. ORD. NO. 11785, SECURITY REQUIREMENTS FOR GOVERNMENTAL EMPLOYEES

Ex. Ord. No. 11785, June 4, 1974, 39 F.R. 20053, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States, including 5 U.S.C. 1101 *et seq.*, 3301, 3571, 7301, 7313, 7501(c), 7512, 7532, and 7533; and as President of the United States, and finding such action necessary in the best interests of national security, it is hereby ordered as follows:

SECTION 1. Section 12 of Executive Order No. 10450 of April 27, 1953, as amended [set out as a note under this section], is revised to read in its entirety as follows:

"SEC. 12. Executive Order No. 9835 of March 21, 1947, as amended, is hereby revoked."

SEC. 2. Neither the Attorney General, nor the Subversive Activities Control Board, nor any other agency shall designate organizations pursuant to section 12 of Executive Order No. 10450, as amended, nor circulate nor publish a list of organizations previously so designated. The list of organizations previously designated is hereby abolished and shall not be used for any purpose.

SEC. 3. Subparagraph (5) of paragraph (a) of section 8 of Executive Order No. 10450, as amended, is revised to read as follows:

"Knowing membership with the specific intent of furthering the aims of, or adherence to and active participation in, any foreign or domestic organization, association, movement, group, or combination of persons (hereinafter referred to as organizations) which unlawfully advocates or practices the commission of acts of force or violence to prevent others from exercising their rights under the Constitution or laws of the United States or of any State, or which seeks to overthrow the Government of the United States or any State or subdivision thereof by unlawful means."

SEC. 4. Executive Order No. 11605 of July 2, 1971, is revoked.

RICHARD NIXON.

CROSS REFERENCES

Affidavit that acceptance of office will not violate this section, see section 3333 of this title.

Disloyalty and asserting the right to strike against the Government, public officers and employees, see section 1918 of Title 18, Crimes and Criminal Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3333 of this title; title 18 section 1918.

§ 7312. Employment and clearance; individuals removed for national security

Removal under section 7532 of this title does not affect the right of an individual so removed to seek or accept employment in an agency of the United States other than the agency from which removed. However, the appointment of an individual so removed may be made only after the head of the agency concerned has consulted with the Civil Service Commission. The Commission, on written request of the head of the agency or the individual so removed, may determine whether the individual is eligible for employment in an agency other than the agency from which removed.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 524.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 22-1 (4th and 5th provisos).	Aug. 26, 1950, ch. 803, § 1 (4th and 5th provisos), 64 Stat. 477.

The words "Removal under section 7532 of this title" and "so removed" are coextensive with and substituted for "termination of employment herein provided" and "whose employment has been terminated under the provisions of said sections", respectively.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 7313. Riots and civil disorders

(a) An individual convicted by any Federal, State, or local court of competent jurisdiction of—

(1) inciting a riot or civil disorder;

(2) organizing, promoting, encouraging, or participating in a riot or civil disorder;

(3) aiding or abetting any person in committing any offense specified in clause (1) or (2); or

(4) any offense determined by the head of the employing agency to have been committed in furtherance of, or while participating in, a riot or civil disorder;

shall, if the offense for which he is convicted is a felony, be ineligible to accept or hold any position in the Government of the United States

or in the government of the District of Columbia for the five years immediately following the date upon which his conviction becomes final. Any such individual holding a position in the Government of the United States or the government of the District of Columbia on the date his conviction becomes final shall be removed from such position.

(b) For the purposes of this section, "felony" means any offense for which imprisonment is authorized for a term exceeding one year.

(Added Pub. L. 90-351, title V, § 1001(a), June 19, 1968, 82 Stat. 235.)

EFFECTIVE DATE

Section 1002 of Pub. L. 90-351 provided that: "The provisions of section 1001(a) of this title [enacting this section] shall apply only with respect to acts referred to in section 7313(a)(1)-(4) of title 5, United States Code, as added by section 1001 of this title [subsec. (a)(1)—(4) of this section], which are committed after the date of enactment of this title [June 19, 1968]."

RECEIPT OF BENEFITS UNDER LAWS PROVIDING RELIEF FOR DISASTER VICTIMS

Section 1106(e) of Pub. L. 90-448, title XI, Aug. 1, 1968, 82 Stat. 567, provided that: "No person who has been convicted of committing a felony during and in connection with a riot or civil disorder shall be permitted, for a period of one year after the date of his conviction, to receive any benefit under any law of the United States providing relief for disaster victims."

SUBCHAPTER III—POLITICAL ACTIVITIES

COMMISSION ON POLITICAL ACTIVITY OF GOVERNMENT PERSONNEL

Pub. L. 89-617, Oct. 3, 1966, 80 Stat. 868, as amended by Pub. L. 90-55, July 20, 1967, 81 Stat. 124, established a Commission on Political Activity of Government Personnel to make a full and complete investigation and study of the Federal laws which limit or discourage the participation of Federal and State officers and employees in political activity with a view to determining the effect of such laws, the need for their revision or elimination, and an appraisal of the extent to which undesirable results might accrue from their repeal. The Commission was directed to submit a comprehensive report of its activities and the results of its studies to the President and to the Congress on or before December 31, 1967.

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in title 42 sections 4309, 5055.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in section 1-128 of the District of Columbia Code.

§ 7321. Political contributions and services

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service is not obliged, by reason of that employment, to contribute to a political fund or to render political service, and that he may not be removed or otherwise prejudiced for refusal to do so.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 633(2)5	Jan. 16, 1883, ch. 27, § 2(2) 5, 22 Stat. 404.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302 of this title.

The words "employee in an Executive agency or in the competitive service" are substituted for "person in the public service" for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

President's power to grant exceptions from provisions of this section, see section 3302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

§ 7322. Political use of authority or influence; prohibition

The President may prescribe rules which shall provide, as nearly as conditions of good administration warrant, that an employee in an Executive agency or in the competitive service may not use his official authority or influence to coerce the political action of a person or body.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 633(2) 6 (1st sentence).	Jan. 16, 1883, ch. 27, § 2(2) 6, 22 Stat. 404.

The authority of the President to prescribe rules is added on authority of former section 633(1), which is carried into section 3302 of this title.

The words "employee in an Executive agency or in the competitive service" are substituted for "person in said service" for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

President's power to grant exceptions from provisions of this section, see section 3302 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 3302 of this title.

§ 7323. Political contributions; prohibition

An employee in an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate) may not request or receive from, or give to, an employee, a Member of Congress, or an officer of a uniformed service a thing of value for political purposes. An employee who violates this section shall be removed from the service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118o	Aug. 15, 1876, ch. 287, § 6, 19 Stat. 169.

The words "An employee of an Executive agency (except one appointed by the President, by and with the advice and consent of the Senate)" are substituted for "Any executive officer or employee of the United States not appointed by the President, with the advice and consent of the Senate," because of the definitions in sections 105 and 2105. The words "an employee, a Member of Congress, or an officer of a uniformed service" are substituted for "any other officer or employee of the Government". In the last sentence, the word "removed" is substituted for "at once discharged" because of the provisions of the Lloyd-LaFollette Act, 37 Stat. 555, as amended, and the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

The criminal penalty appearing in the last 25 words of section 6 of the Act of Aug. 15, 1876, is omitted as superseded by sections 602 and 607 of title 18.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Employees to be removed from competitive service only for cause, see section 7501 of this title.

§ 7324. Influencing elections; taking part in political campaigns; prohibitions; exceptions

(a) An employee in an Executive agency or an individual employed by the government of the District of Columbia may not—

(1) use his official authority or influence for the purpose of interfering with or affecting the result of an election; or

(2) take an active part in political management or in political campaigns.

For the purpose of this subsection, the phrase "an active part in political management or in political campaigns" means those acts of political management or political campaigning which were prohibited on the part of employees in the competitive service before July 19, 1940, by determinations of the Civil Service Commission under the rules prescribed by the President.

(b) An employee or individual to whom subsection (a) of this section applies retains the right to vote as he chooses and to express his opinion on political subjects and candidates.

(c) Subsection (a) of this section does not apply to an individual employed by an educational or research institution, establishment, agency, or system which is supported in whole or in part by the District of Columbia or by a recognized religious, philanthropic, or cultural organization.

(d) Subsection (a)(2) of this section does not apply to—

(1) an employee paid from the appropriation for the office of the President;

(2) the head or the assistant head of an Executive department or military department;

(3) an employee appointed by the President, by and with the advice and consent of the Senate, who determines policies to be pursued by the United States in its relations with foreign powers or in the nationwide administration of Federal laws;

(4) the Mayor of the District of Columbia, the members of the Council of the District of Columbia, or the Chairman of the Council of the District of Columbia, as established by the District of Columbia Self-Government and Governmental Reorganization Act; or

(5) the Recorder of Deeds of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 525; Pub. L. 93-268, § 4(a), Apr. 17, 1974, 88 Stat. 87.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 118i(a) (1st 2 sentences).	Aug. 2, 1939, ch. 410, § 9(a) (1st 2 sentences), 53 Stat. 1148. Mar. 27, 1942, ch. 199, § 701, 56 Stat. 181.
	5 U.S.C. 118k-3 (1st 33 words).	July 19, 1940, ch. 640, § 4 "Sec. 14 (1st 33 words)", 54 Stat. 771.
	5 U.S.C. 118l (less applicability to 5 U.S.C. 118k).	July 19, 1940, ch. 640, § 4 "Sec. 15 (less applicability to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 54 Stat. 771.
(b)	5 U.S.C. 118i(a) (3d sentence).	Aug. 2, 1939, ch. 410, § 9(a) (3d sentence), 53 Stat. 1148. July 19, 1940, ch. 640, § 2, 54 Stat. 767.
(c)	5 U.S.C. 118k-1 (less applicability to 5 U.S.C. 118k).	Oct. 24, 1942, ch. 620, "Sec. 21 (less applicability to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)" 56 Stat. 986.
(d)	5 U.S.C. 118i(a) (4th sentence).	Aug. 2, 1939, ch. 410, § 9(a) (4th sentence), 53 Stat. 1148.
	5 U.S.C. 118k-3 (less 1st 33 words).	July 19, 1940, ch. 640, § 4 "Sec. 14 (less 1st 33 words)". 54 Stat. 771.

In subsection (a), the words "July 19, 1940" are substituted for "at the time this section takes effect". The amendment made by the Act of Mar. 27, 1942, is omitted because it expired Mar. 31, 1947, under section 1501 of that Act, as added June 29, 1946, ch. 526, § 1, 60 Stat. 345; 50A U.S.C. 645.

In subsection (c), the reference in the Act of Oct. 24, 1942, to section 2 of the Act of Aug. 2, 1939, is omitted as that section was repealed by the Act of June 25, 1948, ch. 645, § 21, 62 Stat. 867, and is now covered by section 595 of title 18.

In subsection (d), the exception for the President and Vice-President of the United States is omitted as unnecessary, as they are not "employees" under the definition in section 2105. In subsection (d)(2), the words "or military departments" are inserted to preserve the application of the source law. Before enactment of the National Security Act Amendments of 1949 (63 Stat. 578), the Department of the Army, the Department of the Navy, and the Department of the Air Force were Executive departments. The National Security Act Amendments of 1949 established the Department of Defense as an Executive Department including the Department of the Army, the Department of the Navy, and the Department of the Air Force as military departments, not as Executive departments. However, the source law for this subsection, which was in effect in 1949, remained applicable to the head or assistant head of a military department by virtue of section 12(g) of the National Security Act Amendments of 1949 (63 Stat. 591), which is set out in the reviser's note for section 301.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1974—Subsec. (d)(4). Pub. L. 93-268 substituted "the Mayor of the District of Columbia, the members of the Council of the District of Columbia, or the Chairman of the Council of the District of Columbia, as established by the District of Columbia Self-Government and Governmental Reorganization Act" for "the Commissioners of the District of Columbia".

Commissioner of the District of Columbia and Members of the District of Columbia Council Exempted from Prohibitions

Section 4(b) of Pub. L. 93-268 provided that: "Notwithstanding any other provision of law, the provisions of section 7324(a)(2) of title 5, United States Code [subsec. (a)(2) of this section], shall not be applicable to the Commissioner of the District of Columbia or the members of the District of Columbia Council (including the Chairman and Vice Chairman), as established by Reorganization Plan Numbered 3 of 1967 [set out in the Appendix to this title]."

Cross References

Political activities of State and local officers and employees, see section 1501 et seq. of this title.

Section Referred to in Other Sections

This section is referred to in sections 7325, 7326, 7327 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 7325. Penalties

An employee or individual who violates section 7324 of this title shall be removed from his position, and funds appropriated for the position from which removed thereafter may not be used to pay the employee or individual. However, if the Civil Service Commission finds by unanimous vote that the violation does not warrant removal, a penalty of not less than 30 days' suspension without pay shall be imposed by direction of the Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118i(b) (less last proviso, and less last sentence).	Aug. 2, 1939, ch. 410, § 9(b), 53 Stat. 1148.
		DAug. 25, 1950, ch. 784, § 1 "Sec. 9(b) (less last proviso, and less last sentence)", 64 Stat. 475.
		Oct. 5, 1962, Pub. L. 87-753, 76 Stat. 750.

The word "removed" is substituted for "removed immediately" because of the provisions of the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which is carried into this title. The words "or office" are omitted as included in "position". The words "by any Act of Congress" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Report to President on individuals on whom Commission has imposed a penalty under this section, see section 1308 of this title.

Section Referred to in Other Sections

This section is referred to in section 1308 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 7326. Nonpartisan political activity permitted

Section 7324(a)(2) of this title does not prohibit political activity in connection with—

(1) an election and the preceding campaign if none of the candidates is to be nominated or elected at that election as representing a party any of whose candidates for presidential elector received votes in the last preceding election at which presidential electors were selected; or

(2) a question which is not specifically identified with a National or State political party or political party of a territory or possession of the United States.

For the purpose of this section, questions relating to constitutional amendments, referendums, approval of municipal ordinances, and others of a similar character, are deemed not specifically identified with a National or State political party or political party of a territory or possession of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118n (less applicability to 5 U.S.C. 118k(a)).	July 19, 1940, ch. 640, § 4 "Sec. 18 (less applicability to § 12 of the Act of Aug. 2, 1939; added July 19, 1940, ch. 640, § 4, 54 Stat. 767)", 54 Stat. 772.

The words "or political part of a territory or possession of the United States" are added on authority of former section 118k-2, which is carried into section 1501.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 7327. Political activity permitted; employees residing in certain municipalities

(a) Section 7324(a)(2) of this title does not apply to an employee of The Alaska Railroad who resides in a municipality on the line of the railroad in respect to political activities involving that municipality.

(b) The Civil Service Commission may prescribe regulations permitting employees and individuals to whom section 7324 of this title applies to take an active part in political management and political campaigns involving the municipality or other political subdivision in which they reside, to the extent the Commission considers it to be in their domestic interest, when—

(1) the municipality or political subdivision is in Maryland or Virginia and in the immediate vicinity of the District of Columbia, or is a municipality in which the majority of voters are employed by the Government of the United States; and

(2) the Commission determines that because of special or unusual circumstances which exist in the municipality or political

subdivision it is in the domestic interest of the employees and individuals to permit that political participation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 118i (a) (less 1st 4 sentences).	Aug. 8, 1946, ch. 904, 60 Stat. 937.
(b)	5 U.S.C. 118m	July 19, 1940, ch. 640 § 4 "Sec. 16", 54 Stat. 771.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

SUBCHAPTER IV—FOREIGN GIFTS AND DECORATIONS

AMENDMENTS

1967—Pub. L. 90-83, § 1(45)(A), Sept. 11, 1967, 81 Stat. 208, substituted "Foreign Gifts and Decorations" for "Foreign Decorations" in the subchapter heading.

[§ 7341. Repealed. Pub. L. 90-83, § 1(45)(B), Sept. 11, 1967, 81 Stat. 208.]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 526, related to receipt and display of foreign decorations, and is now covered by section 7342 of this title.

§ 7342. Receipt and disposition of foreign gifts and decorations

(a) For the purpose of this section—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title;

(B) an individual employed by, or occupying an office or position in, the government of a territory or possession of the United States or the District of Columbia;

(C) a member of a uniformed service;

(D) the President;

(E) a Member of Congress as defined by section 2106 of this title; and

(F) a member of the family and household of an individual described in subparagraphs (A)-(E) of this paragraph;

(2) "foreign government" means a foreign government and an official agent, or representative thereof;

(3) "gift" means a present or thing, other than a decoration, tendered by or received from a foreign government; and

(4) "decoration" means an order, device, medal, badge, insignia, or emblem tendered by or received from a foreign government.

(b) An employee may not request or otherwise encourage the tender of a gift or decoration.

(c) Congress consents to—

(1) the accepting and retaining by an employee of a gift of minimal value tendered or received as a souvenir or mark of courtesy; and

(2) the accepting by an employee of a gift of more than minimal value when it appears that to refuse the gift would be likely to cause offense or embarrassment or otherwise adversely affect the foreign relations of the United States.

However, a gift of more than minimal value is deemed to have been accepted on behalf of the United States and shall be deposited by the donee for use and disposal as the property of the United States under regulations prescribed under this section.

(d) Congress consents to the accepting, retaining, and wearing by an employee of a decoration tendered in recognition of active field service in time of combat operations or awarded for other outstanding or unusually meritorious performance, subject to the approval of the agency, office or other entity in which the employee is employed and the concurrence of the Secretary of State. Without this approval and concurrence, the decoration shall be deposited by the donee for use and disposal as the property of the United States under regulations prescribed under this section.

(e) The President may prescribe regulations to carry out the purpose of this section.

(Added Pub. L. 90-83, § 1(45)(C), Sept. 11, 1967, 81 Stat. 208.)

HISTORICAL AND REVISION NOTES

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
7342(a)	22:2621	Oct. 15, 1966, Pub. L. 89-673, § 2, 80 Stat. 952.
7342(b)	22:2622	Oct. 15, 1966, Pub. L. 89-673, § 3, 80 Stat. 952.
7342(c)	22:2623	Oct. 15, 1966, Pub. L. 89-673, § 4, 80 Stat. 952.
7342(d)	22:2624	Oct. 15, 1966, Pub. L. 89-673, § 5, 80 Stat. 952.
7342(e)	22:2626	Oct. 15, 1966, Pub. L. 89-673, § 7, 80 Stat. 952.

The definitions of "employee" and "uniformed services" in 5 U.S.C. 2105 and 2101 are broad enough to cover the persons included in 22 U.S.C. 2621(1) with the exception of (1) individuals employed by, or occupying an office or position in, the government of a territory or possession of the United States or of the District of Columbia, (2) the President, and (3) Members of Congress, who, accordingly, are covered in paragraphs (B), (D), and (E). As the Canal Zone Government is an independent agency of the United States, see section 31 of title 2, Canal Zone Code, an employee thereof is an "employee" as defined in 5 U.S.C. 2105.

In subsection (b), the words "An employee may not" are substituted for "No person shall" to conform to the definition applicable and style of title 5, United States Code.

In subsection (c), the words "under regulations prescribed under this section" are substituted for "in accordance with the rules and regulations issued pursuant to this Act".

In subsection (e), the words "The President may prescribe regulations to carry out the purpose of this section" are substituted for "Rules and regulations to carry out the purposes of this Act may be prescribed by or under the authority of the President". Under 3 U.S.C. 301, the President may delegate the authority vested in him by this subsection.

WEARING OF CERTAIN DECORATIONS

Section 33A of Act Aug. 10, 1956, ch. 1041, as added by Pub. L. 85-861, Sept. 2, 1958, § 33(e), 72 Stat. 1568, provided: "A member or former member of an armed force of the United States holding any office of profit or trust under the United States may wear any decoration, order, medal, or emblem accepted (1) under the Act of July 20, 1942, chapter 508 (56 Stat. 662), or (2) before August 1, 1947, from the government of a cobelligerent or neutral nation or an American Republic."

Ex. Ord. No. 11320. Delegation of Authority

Ex. Ord. No. 11320, Dec. 12, 1966, 31 F.R. 15789, provided:

By virtue of the authority vested in me by Section 7 of the Foreign Gifts and Decorations' Act of 1966 (Public Law 89-673; 80 Stat. 952) and Section 301 of Title 3 of the United States Code, and as President of the United States, it is ordered as follows:

The Secretary of State, and, when designated by the Secretary of State for such purpose, the Under Secretary of State, are hereby designated and empowered to exercise, without the approval, ratification, or other action of the President, the authority conferred upon the President by Section 7 of the Foreign Gifts and Decorations Act of 1966 to prescribe rules and regulations to carry out the purposes of that Act. Such rules and regulations shall be published in the Federal Register.

Lyndon B. Johnson.

Ex Ord. No. 11446. Acceptance of Service Medals and Ribbons From Multilateral Organizations Other Than United Nations

Ex. Ord. No. 11446, Jan. 16, 1969, 34 F.R. 803, provided:

By virtue of the authority vested in me as President of the United States and as Commander in Chief of the Armed Forces of the United States, I hereby authorize the Secretary of Defense, with respect to members of the Army, Navy, Air Force, and Marine Corps, and the Secretary of Transportation, with respect to members of the Coast Guard when it is not operating as a service in the Navy, to prescribe regulations for the acceptance of medals and ribbons which are offered by multilateral organizations, other than the United Nations, to members of the Armed Forces of the United States in recognition of service conducted under the auspices of those organizations. A determination that service for a multilateral organization in a particular geographical area or for a particular purpose constitutes a justifiable basis for authorizing acceptance of the medal or ribbon offered to eligible members of the Armed Forces of the United States shall be made with the concurrence of the Secretary of State.

Lyndon B. Johnson.

Section Referred to in Other Sections

This section is referred to in title 22 section 2458a.

SUBCHAPTER V—MISCONDUCT

§ 7351. Gifts to superiors

An employee may not—

(1) solicit a contribution from another employee for a gift to an official superior;

(2) make a donation as a gift to an official superior; or

(3) accept a gift from an employee receiving less pay than himself.

An employee who violates this section shall be removed from the service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 527.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 113	R.S. § 1784.

The application of the section is confined to employees, since the President and Members of Congress, though officers, could not have been intended to be "summarily discharged", and members of uniformed services are not covered by this statute. In the last sentence, the word "removed" is substituted for "summarily discharged" because of the provisions of the Lloyd-LaFollette Act, 37 Stat. 555, as amended, and the Veterans' Preference Act of 1944, 58 Stat. 387, as amended, which are carried into this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Removals from competitive civil service only for cause, see section 7501 of this title.

§ 7352. Excessive and habitual use of intoxicants

An individual who habitually uses intoxicating beverages to excess may not be employed in the competitive service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 527.)

Historical and Revision Notes

Derivation	*U.S.C Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 640	Jan. 16, 1883, ch. 27, § 8, 22 Stat. 406.

The word "employed" is substituted for "appointed to, or retained in" because it includes both.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CHAPTER 75—ADVERSE ACTIONS

SUBCHAPTER I—COMPETITIVE SERVICE
Sec.
7501. Cause; procedure; exception.

SUBCHAPTER II—PREFERENCE ELIGIBLES
7511. Definitions.
7512. Cause; procedure; exception.

SUBCHAPTER III—HEARING EXAMINERS
7521. Removal.

SUBCHAPTER IV—NATIONAL SECURITY
7531. Definitions.
7532. Suspension and removal.
7533. Effect on other statutes.

Chapter Referred to in Other Sections

This chapter is referred to in section 3382 of this title; title 39 section 1005.

SUBCHAPTER I—COMPETITIVE SERVICE

§ 7501. Cause; procedure; exception

(a) An individual in the competitive service may be removed or suspended without pay only for such cause as will promote the efficiency of the service.

(b) An individual in the competitive service whose removal or suspension without pay is sought is entitled to reasons in writing and to—

(1) notice of the action sought and of any charges preferred against him;

(2) a copy of the charges;

(3) a reasonable time for filing a written answer to the charges, with affidavits; and

(4) a written decision on the answer at the earliest practicable date.

Examination of witnesses, trial, or hearing is not required but may be provided in the discretion of the individual directing the removal or suspension without pay. Copies of the charges, the notice of hearing, the answer, the reasons for and the order of removal or suspension without pay, and also the reasons for reduction in grade or pay, shall be made a part of the records of the employing agency, and, on request, shall be furnished to the individual affected and to the Civil Service Commission.

(c) This section applies to a preference eligible employee as defined by section 7511 of this title only if he so elects. This section does not apply to the suspension or removal of an employee under section 7532 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 527.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
…………….	5 U.S.C. 652(a)	Aug. 24, 1912, ch. 389, § 6 (less proviso, and less last sentence), 37 Stat. 555. June 10, 1948, ch. 447 "Sec. 6(a)", 62 Stat. 354.

In subsection (c), the second sentence is added on authority of the first 9 words of former section 22-1, which is carried in part into section 7532.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

EXECUTIVE ORDER NO. 10987

Ex. Ord. No. 10987, Jan. 18, 1962, 27 F.R. 550, formerly set out as a note under this section, which related to agency systems for appeals from adverse action, was revoked by Ex. Ord. No. 11787, June 11, 1974, 39 F.R. 20675, set out as a note under section 7701 of this title.

CROSS REFERENCES

Elections and political campaigns, see section 7325 of this title.

Gifts to superiors, see section 7351 of this title.

Lobbying with appropriated funds, removal from office by superior officer, see section 1913 of Title 18, Crimes and Criminal Procedure.

Personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs transferred to Coast Guard, retention of civil-service status and pay, see section 433 of Title 14, Coast Guard.

Political contributions, see section 7323 of this title.

Withholding pay, employees removed for cause, see section 5511 of this title.

SUBCHAPTER II—PREFERENCE ELIGIBLES

§ 7511. Definitions

For the purpose of this subchapter—

(1) "preference eligible employee" means a permanent or indefinite preference eligible who has completed a probationary or trial period as an employee of an Executive agency or as an individual employed by the government of the District of Columbia, but does not include an employee whose appointment is required by Congress to be confirmed by, or made with the advice and consent of, the Senate; and

(2) "adverse action" means a removal, suspension for more than 30 days, furlough without pay, or reduction in rank or pay.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528; Pub. L. 94-183, § 2(30), Dec. 31, 1975, 89 Stat. 1058.)

HISTORICAL AND REVISION NOTES

The section is supplied on authority of sections 2, 14, and 20 of the Act of June 27, 1944, ch. 287, 58 Stat. 387, 390, and 391, which are carried into this title.

In paragraph (2), the word "removal" is coextensive with and substituted for "discharge".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Par. (1). Pub. L. 94-183 deleted "except an employee whose appointment is made under section 3311 of title 39" following "or made with the advice and consent of, the Senate".

CROSS REFERENCES

Preference eligible, see section 2108 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 7501, 7701 of this title; title 22 section 1438; title 32 section 709.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 7512. Cause; procedure; exception

(a) An agency may take adverse action against a preference eligible employee, or debar him for future appointment, only for such cause as will promote the efficiency of the service.

(b) A preference eligible employee against whom adverse action is proposed is entitled to—

(1) at least 30 days' advance written notice, except when there is reasonable cause to believe him guilty of a crime for which a sentence of imprisonment can be imposed, stating any and all reasons, specifically and in detail, for the proposed action;

(2) a reasonable time for answering the notice personally and in writing and for furnishing affidavits in support of the answer; and

(3) a notice of an adverse decision.

(c) This section does not apply to the suspension or removal of a preference eligible employee under section 7532 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
…………….	5 U.S.C. 863 (1st 168 words).	June 27, 1944, ch. 287, § 14 (1st 168 words), 58 Stat. 390.)

The application of this section is covered by the definitions in sections 105, 2105, 2108, and 7511.

Subsection (b)(3) is added on authority of the last 24 words before the first proviso in former section 863, which is carried in part into this section and section 7701.

Subsection (c) is added on authority of the first 16 words of former section 22-1, which is carried in part into section 7532.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

Lobbying with appropriated funds, removal from office by superior officer, see section 1913 of Title 18, Crimes and Criminal Procedure.

National Security Agency—

Board of appraisal, personnel appraisal not prerequisite to action under this section, see section 832 of Title 50, War and National Defense.

Employment, termination notwithstanding this section, see section 833 of Title 50.

Withholding pay, employees removed for cause, see section 5511 of this title.

Section Referred to in Other Sections

This section is referred to in sections 3315, 7701 of this title; title 22 section 1438; title 32 section 709.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

SUBCHAPTER III—HEARING EXAMINERS

§ 7521. Removal

A hearing examiner appointed under section 3105 of this title may be removed by the agency in which he is employed only for good cause established and determined by the Civil Service Commission on the record after opportunity for hearing.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1010 (2d sentence).	June 11, 1946, ch. 324, § 11 (2d sentence), 60 Stat. 244.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Cross References

Additional requirements imposed by statute or otherwise recognized by law not limited or repealed by this section, see section 559 of this title.

Civil Service Commission, investigations, reports, and regulations for purposes of this section as relating to hearing examiners, see section 1305 of this title.

Subsequent statutes to be held to supersede or modify this section only to the extent that they do so expressly, see section 559 of this title.

Section Referred to in Other Sections

This section is referred to in sections 559, 1305 of this title; title 15 section 1715; title 29 section 661; title 39 section 3601; title 42 sections 2000e-4, 3608.

SUBCHAPTER IV—NATIONAL SECURITY

§ 7531. Definitions

For the purpose of this subchapter, "agency" means—

(1) the Department of State;

(2) the Department of Commerce;

(3) the Department of Justice;

(4) the Department of Defense;

(5) a military department;

(6) the Coast Guard;

(7) the Atomic Energy Commission;

(8) the National Aeronautics and Space Administration; and

(9) such other agency of the Government of the United States as the President designates in the best interests of national security.

The President shall report any designation to the Committees on the Armed Services of the Congress.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 528.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 22-3	Aug. 26, 1950, ch. 803, § 3, 64 Stat. 477

Paragraphs (1)-(8) are supplied on authority of former section 22-1, which is carried in part into section 7532. The references to "the Foreign Service of the United States" and "several field services" are omitted as unnecessary since they are within the agencies concerned. The words "military departments" are substituted for the enumeration of the military departments in view of the definition of "military department" in section 102.

The reference to the National Security Resources Board is omitted as the Board was abolished by 1953 Reorg. Plan No. 3, § 6, eff. June 12, 1953, 67 Stat. 636.

Paragraph (9) is restated to conform to the style of this title.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Transfer of Functions

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

Panama Canal and Panama Railroad Company

Ex. Ord. No. 10237, Apr. 27, 1951, 16 F.R. 3627, makes the provisions of former sections 22-1 and 22-3 of this title [see Distribution Tables] applicable to the Panama Canal Government and to the Panama Canal Company.

§ 7532. Suspension and removal

(a) Notwithstanding other statutes, the head of an agency may suspend without pay an employee of his agency when he considers that action necessary in the interests of national security. To the extent that the head of the agency determines that the interests of national security permit, the suspended employee shall be notified of the reasons for the suspension. Within 30 days after the notification, the suspended employee is entitled to submit to the official designated by the head of the agency statements or affidavits to show why he should be restored to duty.

(b) Subject to subsection (c) of this section, the head of an agency may remove an employee suspended under subsection (a) of this section when, after such investigation and review as he considers necessary, he determines that removal is necessary or advisable in the interests of national security. The determination of the head of the agency is final.

(c) An employee suspended under subsection (a) of this section who—

(1) has a permanent or indefinite appointment;

(2) has completed his probationary or trial period; and

(3) is a citizen of the United States;

is entitled, after suspension and before removal, to—

(A) a written statement of the charges against him within 30 days after suspension, which may be amended within 30 days thereafter and which shall be stated as specifically as security considerations permit;

(B) an opportunity within 30 days thereafter, plus an additional 30 days if the charges are amended, to answer the charges and submit affidavits;

(C) a hearing, at the request of the employee, by an agency authority duly constituted for this purpose;

(D) a review of his case by the head of the agency or his designee, before a decision adverse to the employee is made final; and

(E) a written statement of the decision of the head of the agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 529.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 22-1 (less 3d-5th provisos).	Aug. 26, 1950, ch. 803, § 1 (less 3d-5th provisos), 64 Stat. 476.
		July 29, 1958, Pub. L. 85-568, § 301(c), 72 Stat. 432.

The application of this section is covered by the definition in section 7531.

In subsection (a), the words "Notwithstanding the provisions of section 652 of this title" are omitted but are carried into section 7501(c). The words "in his absolute discretion" are omitted as unnecessary in view of the permissive grant of authority. The word "reinstated" is omitted as it is commonly used in other statutes to denote action different from that referred to here.

In subsections (b) and (c), the words "remove" and "removal" are coextensive with and substituted for "terminate the employment", "termination", and "employment is terminated", as appropriate.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

CROSS REFERENCES

National Security Agency—

Board of appraisal, personnel appraisal not prerequisite to action under this section, see section 832 of Title 50, War and National Defense.

Employment, termination notwithstanding this section, see section 833 of Title 50.

Restoration to duty of persons suspended or removed under this section, see section 3571 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3571, 7312, 7501, 7512 of this title.

§ 7533. Effect on other statutes

This subchapter does not impair the powers vested in the Atomic Energy Commission by chapter 23 of title 42, or the requirement in section 2201(d) of title 42 that adequate provision be made for administrative review of a determination to dismiss an employee of the Atomic Energy Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 529.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 22-2	Aug. 26, 1950, ch. 803, § 2, 64 Stat. 477.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TRANSFER OF FUNCTIONS

The Atomic Energy Commission was abolished and all functions of the Commission, the Chairman, the members of the Commission, and the officers and components of the Commission were transferred to and vested in the Administrator of the Energy Research and Development Administration, with certain exceptions by Pub. L. 93-438, Oct. 11, 1974, 88 Stat. 1233. See section 5814 of Title 42, The Public Health and Welfare.

CHAPTER 77—APPEALS

Sec.
7701. Appeals of preference eligibles.

§ 7701. Appeals of preference eligibles

A preference eligible employee as defined by section 7511 of this title is entitled to appeal to the Civil Service Commission from an adverse decision under section 7512 of this title of an administrative authority so acting. The employee shall submit the appeal in writing within a reasonable time after receipt of notice of the adverse decision, and is entitled to appear personally or through a representative under regulations prescribed by the Commission. The Commission, after investigation and consideration of the evidence submitted, shall submit its findings and recommendations to the administrative authority and shall send copies of the findings and recommendations to the appellant or his representative. The administrative authority shall take the corrective action that the Commission finally recommends.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 530.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 863 (less 1st 168 words, and less 2d proviso).	June 27, 1944, ch. 287, § 14 (less 1st 168 words, and less 2d proviso), 58 Stat. 390.
		Aug. 4, 1947, ch. 447, 61 Stat. 723.
....	5 U.S.C. 868 (proviso).	June 22, 1948, ch. 604, 62 Stat. 575.

The application of the section is established by the words "A preference eligible employee as defined by section 7511 of this title". Specific mention of the actions appealable are covered by the reference to "an adverse decision under section 7512 of this title". The words "administrative authority" are substituted for "administrative officer" to avoid conflict with the definitions of "employee" and "officer" in chapter 21 of this title and to include an individual who is employed by the government of the District of Columbia or who is a member of a uniformed service as such an individual could have been an "administrative officer" under former section 863. The words "the date of" in the phrase "after the date of receipt of notice" are omitted as unnecessary. The words "reasonable rules and" in the phrase "reasonable rules and regulations" are omitted as unnecessary. The word "proper" in the phrase "proper administrative officer" is omitted as unnecessary. The word "designated" in the phrase "designated representative" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in preface to the report.

EX. ORD. NO. 11787. APPEALS SYSTEM FOR EMPLOYEES

Ex. Ord. No. 11787, June 11, 1974, 39 F.R. 20675, provided:

By virture of the authority vested in me by the Constitution and statutes of the United States, including sections 3301 and 7301 of title 5 of the United States Code, and as President of the United States, it is ordered as follows:

SECTION 1. Except when otherwise provided by statute, the appeals system established by the Civil Service Commission under chapter 77 of title 5 of the United States Code [this chapter], and section 22 of the Executive Order No. 11491 of October 29, 1969 [set out as a note under section 7301 of this title], shall constitute the sole system of appeal for an employee who is covered by that appeals system.

SEC. 2. Executive Order No. 10987, relating to agency systems for appeals from adverse action, is revoked.

SEC. 3. This order shall be effective on the 90th day after issuance and shall apply to all adverse actions effective on and after that day. However, an appeal timely filed from an adverse action effective prior to that day under an agency appeals system established pursuant to Executive Order No. 10987 shall be processed to completion under that system.

RICHARD NIXON.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 22 section 1438.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

CHAPTER 79—SERVICES TO EMPLOYEES

Sec.
7901. Health service programs.
7902. Safety programs.
7903. Protective clothing and equipment.

§ 7901. Health service programs

(a) The head of each agency of the Government of the United States may establish, within the limits of appropriations available, a health service program to promote and maintain the physical and mental fitness of employees under his jurisdiction.

(b) A health service program may be established by contract or otherwise, but only—

(1) after consultation with the Secretary of Health, Education, and Welfare and consideration of its recommendations; and

(2) in localities where there are a sufficient number of employees to warrant providing the service.

(c) A health service program is limited to—

(1) treatment of on-the-job illness and dental conditions requiring emergency attention;

(2) preemployment and other examinations;

(3) referral of employees to private physicians and dentists; and

(4) preventive programs relating to health.

(d) The Secretary of Health, Education, and Welfare, on request, shall review a health service program conducted under this section and shall submit comment and recommendations to the head of the agency concerned.

(e) When this section authorizes the use of the professional services of physicians, that authorization includes the use of the professional services of surgeons and osteopathic practitioners within the scope of their practice as defined by State law.

(f) The health programs conducted by the following agencies are not affected by this section—

(1) the Tennessee Valley Authority;

(2) the Canal Zone Government; and

(3) the Panama Canal Company.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 530; Pub. L. 90-83, § 1(47), Sept. 11, 1967, 81 Stat. 209.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 150	Aug. 8, 1946, ch. 865, 60 Stat. 903. Sept. 23, 1950, ch. 1010, § 8, 64 Stat. 986.

In subsection (a), the words "agency of the Government of the United States" are coextensive with and substituted for "departments and agencies including Government-owned and controlled corporations" to avoid confusion with the definitions in sections 101-105.

In subsection (d) the word "appropriate" in the phrase "appropriate comment and recommendations" is omitted as unnecessary. The words "to the head of the agency concerned" are added for clarity.

In subsection (e), the substance of the definition of "physician" in former section 790 is substituted for the reference to that section.

In subsection (f) (2) and (3), the words "Canal Zone Government" and "Panama Canal Company" are substituted for "Panama Canal" and "Panama Railroad", respectively, on the authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a), 64 Stat. 1038.

The last proviso of the first sentence of the Act of Aug. 8, 1946, is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends 5 U.S.C. 7901 to reflect 1966 Reorganization Plan No. 3, effective June 25, 1966, 80 Stat. 1610, section 1 of which transferred all functions of the Public Health Service to the Secretary of Health, Education, and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 50 section 403j.

§ 7902. Safety programs

(a) For the purpose of this section—

(1) "employee" means an employee as defined by section 8101 of this title; and

(2) "agency" means an agency in any branch of the Government of the United States, including an instrumentality wholly owned by the United States, and the government of the District of Columbia.

(b) The Secretary of Labor shall carry out a safety program under section 941(b)(1) of title 33 covering the employment of each employee of an agency.

(c) The President may—

(1) establish by Executive order a safety council composed of representatives of the agencies and of labor organizations representing employees to serve as an advisory body to the Secretary in furtherance of the safety program carried out by the Secretary under subsection (b) of this section; and

(2) undertake such other measures as he considers proper to prevent injuries and accidents to employees of the agencies.

(d) The head of each agency shall develop and support organized safety promotion to reduce accidents and injuries among employees of his agency, encourage safe practices, and eliminate work hazards and health risks.

(e) Each agency shall—

(1) keep a record of injuries and accidents to its employees whether or not they result in loss of time or in the payment or furnishing of benefits; and

(2) make such statistical or other reports on such forms as the Secretary may prescribe by regulation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 530; Pub. L. 91-596, § 19(c), Dec. 29, 1970, 84 Stat. 1610.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 784 (less (a))	Sept. 16, 1916, ch. 458, § 33 (less (a)); added. Dec. 22, 1944, ch. 664, 58 Stat. 887. Oct. 14, 1949, ch. 691, § 209, 63 Stat. 865.

Subsection (a) is added on authority of former sections 790(b) and 794 (1st sentence), which are carried into section 8101.

The words "Secretary of Labor" and "Secretary" are substituted for "Administrator" on authority of section 1 of 1950 Reorg. Plan No. 19, eff. May 24, 1950, 64 Stat. 1271.

Subsection (b) is restated for clarity. The words "under section 941(b)(1) of title 33" are substituted for "The provisions of section 941 of title 33 shall, insofar as not inapplicable, apply" on authority of section 941(g)(2) of title 33. The reference to "a safety program" is based in part on the words "in furtherance of the safety program carried out by the Secretary pursuant to this section" in former section 784(c).

In subsection (d), the word "foster" is omitted as included in "develop and support". The words "and reduce compensable injuries" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1970—Subsec. (c)(1). Pub. L. 91-596 included representatives of labor organizations representing employees.

Executive Order No. 10990

Ex. Ord. No. 10990, Feb. 5, 1962, 27 F.R. 1065, formerly set out as a note under this section, which provided for the establishment of a Federal Safety Council, was superseded by Ex. Ord. No. 11612, July 26, 1971, 36 F.R. 13891.

Executive Order No. 11612

Ex. Ord. No. 11612, July 26, 1971, 36 F.R. 13891, formerly set out as a note under this section, which related to occupational safety and health programs for federal employees, was superseded by Ex. Ord. 11807, Sept. 28, 1974, 39 F.R. 35559, set out as a note under this section.

Ex. Ord. No. 11807. Occupational Safety and Health Programs for Federal Employees

Ex. Ord. No. 11807, Sept. 28, 1974, 39 F.R. 35559, provided:

As the Nation's largest employer, the Federal Government has a special obligation to set an example for all employers by providing a safe and healthful working environment for its employees.

For more than three years, the Federal Government has been seeking to carry out these solemn responsibilities under the terms of Executive Order No. 11612, issued in 1971 and based upon the authorities granted by the landmark Occupational Safety and Health Act of 1970 [section 651 et seq. of Title 29] as well as section 7902(c) of title 5, United States Code.

Considerable progress has been achieved under the 1971 executive order, but it is now clear that even greater efforts are needed. It is therefore necessary that a new order be issued, reflecting this Nation's firm and renewed commitment to provide exemplary working conditions for those devoted to public service.

The provisions of this order are intended to ensure that each agency head is provided with all the guidance necessary to carry out an effective occupational safety and health program within the agency. Further, to keep the President abreast of progress, this order provides for detailed evaluations of the agencies' occupational safety and health programs by the Secretary of Labor and transmittal of those evaluations, together with agency comments, to the President. In addition, the Federal Safety Advisory Council on Occupational Safety and Health is continued because of its demonstrated value as an advisory body to the Secretary of Labor.

Experience has shown that agency heads desire and need more detailed guidance from the Secretary of Labor to make their occupational safety and health programs more effective. This order provides that the Secretary of Labor shall issue detailed guidelines and provide such further assistance as the agencies may request.

Now, Therefore, by virtue of the authority vested in me by section 7902(c)(1) of title 5 of the United States Code, and as President of the United States, it is hereby ordered as follows:

Scope of This Order

Section 1. For the purposes of this order, the term "agency" means an Executive Department, as defined in 5 U.S.C. 101, or any employing unit or authority of the Government of the United States not within an Executive Department. This order applies to all agencies of the Executive Branch of the Government; and by agreement between the Secretary of Labor (hereinafter referred to as the Secretary) and the head of an agency of the Legislative or Judicial Branches of the Government, the provisions of this order may be made applicable to such agencies. In addition, by agreement between the Secretary of Labor and the head of any agency, and to the extent permitted by law, the provisions of this order may be extended to employees of agencies who are employed in geographic locations to which the Occupational Safety and Health Act of 1970 is not applicable.

Duties of Heads of Agencies

Sec. 2. The head of each agency shall, after consultation with representatives of the employees thereof, establish and maintain an occupational safety and health program meeting the requirements of section 19 of the Occupational Safety and Health Act (hereinafter referred to as to the act) [section 668 of Title 29]. In order to ensure that agency programs are consistent with the standards prescribed by section 6 of the act [section 655 of Title 29], the head of each agency shall:

(1) Designate or appoint, to be responsible for the management and administration of the agency occupational safety and health program, and agency official with sufficient authority to represent effectively the interest and support of the agency head.

(2) Establish an occupational safety and health management information system, which shall include the maintenance of such records of occupational accidents, injuries, illnesses and their causes, and the compilation and transmittal of such reports based upon this information, as the Secretary may require pursuant to section 3 of this order.

(3) Establish procedures for the adoption of agency occupational safety and health standards consistent with the standards promulgated by the Secretary pursuant to section 6 of the act [section 655 of Title 29]; assure prompt attention to reports by employees or others of unsafe or unhealthful working conditions;

assure periodic inspections of agency workplaces by personnel with sufficient technical competence to recognize unsafe and unhealthful working conditions in such workplaces; and assure prompt abatement of unsafe or unhealthful working conditions, including those involving facilities and/or equipment furnished by another Government agency, informing the Secretary of significant difficulties encountered in this regard.

(4) Provide adequate safety and health training for officials at the different management levels, including supervisory employees, employees responsible for conducting occupational safety and health inspections, and other employees. Such training shall include dissemination of information concerning the operation of the agency occupational safety and health program and the means by which each such person may participate and assist in the operation of that program.

(5) Submit to the Secretary on an annual basis a report containing such information as the Secretary shall prescribe.

(6) Cooperate with and assist the Secretary of Labor in the performance of his duties under section 19 of the act [section 668 of Title 29] and section 3 of this order.

(7) Observe the guidelines published by the Secretary pursuant to section 3 of this order, giving due consideration to the mission, size and organization of the agency.

Duties of the Secretary of Labor

Sec. 3. The Secretary shall provide leadership and guidance to the heads of agencies to assist them in fulfilling their occupational safety and health responsibilities by, among other means, taking the following actions:

(1) Issue detailed guidelines to assist agencies in establishing and operating effective occupational safety and health programs appropriate to their individual missions, sizes, and organizations. Such guidelines shall reflect the requirement of section 19 of the act [section 688 of Title 29] for consultation with employee representatives.

(2) Prescribe recordkeeping and reporting requirements to enable agencies to assist the Secretary in meeting the requirements imposed upon him by section 24 of the act [section 673 of Title 29].

(3) Provide such consultation to agencies as the Secretary deems necessary and appropriate to ensure that agency standards adopted pursuant to section 2 of this order are consistent with the safety and health standards adopted by the Secretary pursuant to section 6 of the act [section 655 of Title 29]; provide leadership and guidance to agencies in the adequate occupational safety and health training of agency personnel; and facilitate the exchange of ideas and information throughout the Government with respect to matters of occupational safety and health through such arrangements as the Secretary deems appropriate.

(4) Perform for agencies, where deemed necessary and appropriate, the following services, upon request and reimbursement for the expenses thereof: (a) Evaluate agency working conditions, and recommend to the agency head appropriate standards to be adopted pursuant to section 2 of this order to ensure that such working conditions are safe and healthful; (b) conduct inspections to identify unsafe or unhealthful working conditions, and provide assistance to correct such conditions; (c) train appropriate agency safety and health personnel.

(5) Evaluate the occupational safety and health programs of agencies, and submit to the President reports of such evaluations, together with agency responses thereto. These evaluations shall be conducted at least once annually for agencies employing more than 1,000 persons within the geographic locations to which the act applies, and as the Secretary deems appropriate for all other agencies, through such headquarters or field reviews as the Secretary deems necessary.

(6) Submit to the President each year a summary report of the status of the Federal agency occupational safety and health program, as well as analyses of individual agency progress and problems in correcting unsafe and unhealthful working conditions, together with recommendations for improving their performance.

Federal Advisory Council on Occupational Safety and Health

Sec. 4. (a) The Federal Advisory Council on Occupational Safety and Health, established pursuant to Executive Order No. 11612, is hereby continued. It shall advise the Secretary in carrying out responsibilities under this order. This Council shall consist of fifteen members appointed by the Secretary and shall include representatives of Federal agencies and of labor organizations representing employees. At least five members shall be representatives of such labor organizations. The members shall serve for three-year terms with the terms of five members expiring each year, provided that this Council is renewed every two years in accordance with the Federal Advisory Committee Act [set out in the Appendix to this title]. The members of the Federal Advisory Council on Occupational Safety and Health established pursuant to Executive Order No. 11612 shall be deemed to be its initial members under this order, and their terms shall expire in accordance with the terms of their appointments.

(b) The Secretary, or a designee, shall serve as the Chairman of the Council, and shall prescribe such rules for the conduct of its business as he deems necessary and appropriate.

(c) The Secretary shall make available necessary office space and furnish the Council necessary equipment, supplies, and staff services, and shall perform such functions with respect to the Council as may be required by the Federal Advisory Committee Act [set out in the Appendix to this title].

Effect on Other Powers and Duties

Sec. 5. Nothing in this order shall be construed to impair or alter the powers and duties of the Secretary or the heads of other Federal agencies pursuant to section 19 of the Occupational Safety and Health Act of 1970 [section 668 of Title 29], sections 7901, 7902, and 7903 of title 5 of the United States Code, or any other provision of law, nor shall it be construed to alter the provisions of Executive Order No. 11491, as amended, Executive Order No. 11636 [set out as a note under section 7301 of this title], or other provisions of law providing for collective bargaining agreements and procedures. Matters of official leave for employee representatives involved in activities pursuant to this order shall be determined between each agency and these representatives pursuant to the procedures under Executive Order No. 11491, as amended, Executive Order No. 11636 [set out as a note under section 7301 of this title], or applicable collective bargaining agreements.

Termination of Existing Order

Sec. 6. Executive Order No. 11612 of July 26, 1971, is hereby superseded.

Gerald R. Ford.

Extension of Term of Federal Advisory Council on Occupational Safety and Health

Term of the Federal Advisory Council on Occupational Safety and Health extended until Dec. 31, 1978, see Ex. Ord. No. 11948, Dec. 20, 1976, 41 F.R. 55705, set out as a note under section 14 of Appendix to this title.

Section Referred to in Other Sections

This section is referred to in section 2105 of this title; title 29 section 668.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 7903. Protective clothing and equipment

Appropriations available for the procurement of supplies and material or equipment are available for the purchase and maintenance of special clothing and equipment for the protection of personnel in the performance of their assigned tasks. For the purpose of this section, "appropriations" includes funds made available by statute under section 849 of title 31.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 531.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 118g	Aug. 2, 1946, ch. 744, § 13, 60 Stat. 809.

The definition of the word "appropriations" is added on authority of section 18 of the Act of Aug. 2, 1946, ch. 744, 60 Stat. 811.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Subpart G—Insurance and Annuities

CHAPTER 81—COMPENSATION FOR WORK INJURIES

SUBCHAPTER I—GENERALLY

Sec.
8101. Definitions.
8102. Compensation for disability or death of employee.
8103. Medical services and initial medical and other benefits.
8104. Vocational rehabilitation.
8105. Total disability.
8106. Partial disability.
8107. Compensation schedule.
8108. Reduction of compensation for subsequent injury to same member.
8109. Beneficiaries of awards unpaid at death; order of precedence.
8110. Augmented compensation for dependents.
8111. Additional compensation for services of attendants or vocational rehabilitation.
8112. Maximum and minimum monthly payments.
8113. Increase or decrease of basic compensation.
8114. Computation of pay.
8115. Determination of wage-earning capacity.
8116. Limitations on right to receive compensation.
8117. Time of accrual of right.
8118. Election to use annual or sick leave. [1]
8119. Notice of injury or death.
8120. Report of injury.
8121. Claim.
8122. Time for making claim.
8123. Physical examinations.
8124. Findings and award; hearings.
8125. Misbehavior at proceedings.
8126. Subpenas; oaths; examination of witnesses.
8127. Representation; attorneys' fees.
8128. Review of award.
8129. Recovery of overpayments.
8130. Assignment of claim.
8131. Subrogation of the United States.
8132. Adjustment after recovery from a third person.
8133. Compensation in case of death.
8134. Funeral expenses; transportation of body.
8135. Lump-sum payment.
8136. Initial payments outside the United States.
8137. Compensation for noncitizens and nonresidents.
8138. Minimum limit modification for noncitizens and aliens.
8139. Employees of the District of Columbia.
8140. Members of the Reserve Officers' Training Corps.
8141. Civil Air Patrol volunteers.
8142. Peace Corps volunteers.
8143. Job Corps enrollees; volunteers in service to America.
8143a. Members of the National Teacher Corps.
8144. Student-employees.
8145. Administration.
8146. Administration for the Canal Zone and The Alaska Railroad.
8146a. Cost-of-living adjustment of compensation.
8147. Employees' Compensation Fund.
[8148. Repealed.]
8149. Regulations.
8150. Effect on other statutes.
8151. Civil service retention rights.

SUBCHAPTER II—EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

8171. Compensation for work injuries; generally.
8172. Employees not citizens or residents of the United States.
8173. Liability under this subchapter exclusive.

SUBCHAPTER III—LAW ENFORCEMENT OFFICERS NOT EMPLOYED BY THE UNITED STATES

8191. Determination of eligibility.
8192. Benefits.
8193. Administration.

Amendments

1974—Pub. L. 93-416, §§ 12(b), 23(a), Sept. 7, 1974, 88 Stat. 1146, 1150, substituted in item 8119 "Notice of injury or death." for "Notice of injury; failure to give.", and added item 8151.

1968—Pub. L. 90-291, § 1(b), Apr. 19, 1968, 82 Stat. 100, added subchapter III consisting of items 8191, 8192, and 8193.

1967—Pub. L. 90-83, § 1(59), (66)(B), (67)(B), (70), Sept. 11, 1967, 81 Stat. 211, 212, 213, inserted "; hearings" in item 8124, added item 8143a relating to members of the National Teachers Corps and item 8146a relating to cost-of-living adjustment of compensation, and struck out item 8148 relating to reports.

Chapter Referred to in Other Sections

This chapter is referred to in title 10 section 7086; title 16 sections 565a-2, 1703; title 30 section 922; title 38 sections 1685, 4107, 4118.

Chapter Referred to in D.C. Code

This chapter is referred to in sections 31-746, 36-504 of the District of Columbia Code.

SUBCHAPTER I—GENERALLY

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 2105, 3373, 3374, 3582, 5595, 8191, 8192, 8332, 8337, 8705, 8706, 8901 of this title; title 2 section 31b-5; title 7 section 1507; title 14 section 760; title 16 sections 1a-6, 18l, 558c, 580j, 831b; title 18 sections 292, 1920, 1922; title 22 sections 1079d, 1079o, 1081, 1091, 2504; title 25 section 450i; title 29 section 926; title 33 section 947; title 38 section 417; title 39 section 1005; title 40 section 290; title 42 sections 2996d, 5055; title 50 App. sections 1291, 2004.

Subchapter Referred to in D.C. Code

This subchapter is referred to in sections 31-728, 31-1603, 31-1623, 36-502 of the District of Columbia Code.

§ 8101. Definitions

For the purpose of this subchapter—

---

[1] So in original. Does not conform to section catchline.

(1) "employee" means—

(A) a civil officer or employee in any branch of the Government of the United States, including an officer or employee of an instrumentality wholly owned by the United States;

(B) an individual rendering personal service to the United States similar to the service of a civil officer or employee of the United States, without pay or for nominal pay, when a statute authorizes the acceptance or use of the service, or authorizes payment of travel or other expenses of the individual;

(C) an individual, other than an independent contractor or an individual employed by an independent contractor, employed on the Menominee Indian Reservation in Wisconsin in operations conducted under a statute relating to tribal timber and logging operations on that reservation;

(D) an individual employed by the government of the District of Columbia; and

(E) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

but does not include—

(i) a commissioned officer of the Regular Corps of the Public Health Service;

(ii) a commissioned officer of the Reserve Corps of the Public Health Service on active duty;

(iii) a commissioned officer of the Environmental Science Services Administration; or

(iv) a member of the Metropolitan Police or the Fire Department of the District of Columbia who is pensioned or pensionable under sections 521-535 of title 4, District of Columbia Code; and

(F)[1] an individual selected pursuant to chapter 121 of title 28, United States Code, and serving as a petit or grand juror and who is otherwise an employee for the purposes of this subchapter as defined by paragraphs (A), (B), (C), (D), and (E) of this subsection.

(2) "physician" includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropracters, and osteopathic practitioners within the scope of their practice as defined by State law. The term "physician" includes chiropractors only to the extent that their reimbursable services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary;

(3) "medical, surgical, and hospital services and supplies" includes services and supplies by podiatrists, dentists, clinical psychologists, optometrists, chiropractors, osteopathic practitioners and hospitals within the scope of their practice as defined by State law. Reimbursable chiropractic services are limited to treatment consisting of manual manipulation of the spine to correct a subluxation as demonstrated by X-ray to exist, and subject to regulation by the Secretary;

(4) "monthly pay" means the monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if the recurrence begins more than 6 months after the injured employee resumes regular full-time employment with the United States, whichever is greater, except when otherwise determined under section 8113 of this title with respect to any period;

(5) "injury" includes, in addition to injury by accident, a disease proximately caused by the employment, and damage to or destruction of medical braces, artificial limbs, and other prosthetic devices which shall be replaced or repaired, and such time lost while such device or appliance is being replaced or repaired; except that eyeglasses and hearing aids would not be replaced, repaired, or otherwise compensated for, unless the damages or destruction is incident to a personal injury requiring medical services;

(6) "widow" means the wife living with or dependent for support on the decedent at the time of his death, or living apart for reasonable cause or because of his desertion;

(7) "parent" includes stepparents and parents by adoption;

(8) "brother" and "sister" mean one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and include stepbrothers and stepsisters, half brothers and half sisters, and brothers and sisters by adoption, but do not include married brothers or married sisters;

(9) "child" means one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support, and includes stepchildren, adopted children, and posthumous children, but does not include married children;

(10) "grandchild" means one who at the time of the death of the employee is under 18 years of age or over that age and incapable of self-support;

(11) "widower" means the husband living with or dependent for support on the decedent at the time of her death, or living apart for reasonable cause or because of her desertion;

(12) "compensation" includes the money allowance payable to an employee or his dependents and any other benefits paid for from the Employees' Compensation Fund, but this does not in any way reduce the amount of the monthly compensation payable for disability or death;

(13) "war-risk hazard" means a hazard arising during a war in which the United States is engaged; during an armed conflict in which the United States is engaged, whether or not war has been declared; or during a war or armed conflict between military forces of any origin, occurring in the country in which an individual to whom this subchapter applies is serving; from—

(A) the discharge of a missile, including liquids and gas, or the use of a weapon, explosive, or other noxious thing by a hostile force or individual or in combating an attack or an imagined attack by a hostile force or individual;

---

[1] So in original. Pub. L. 93-416 added par. (F) immediately after par. (iv), rather than after par. (E).

(B) action of a hostile force or individual, including rebellion or insurrection against the United States or any of its allies;

(C) the discharge or explosion of munitions intended for use in connection with a war or armed conflict with a hostile force or individual;

(D) the collision of vessels on convoy or the operation of vessels or aircraft without running lights or without other customary peacetime aids to navigation; or

(E) the operation of vessels or aircraft in a zone of hostilities or engaged in war activities;

(14) "hostile force or individual" means a nation, a subject of a foreign nation, or an individual serving a foreign nation—

(A) engaged in a war against the United States or any of its allies;

(B) engaged in armed conflict, whether or not war has been declared, against the United States or any of its allies; or

(C) engaged in a war or armed conflict between military forces of any origin in a country in which an individual to whom this subchapter applies is serving;

(15) "allies" means any nation with which the United States is engaged in a common military effort or with which the United States has entered into a common defensive military alliance;

(16) "war activities" includes activities directly relating to military operations;

(17) "student" means an individual under 23 years of age who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at an institution which is—

(A) a school or college or university operated or directly supported by the United States, or by a State or local government or political subdivision thereof;

(B) a school or college or university which has been accredited by a State or by a State-recognized or nationally recognized accrediting agency or body;

(C) a school or college or university not so accredited but whose credits are accepted, on transfer, by at least three institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited; or

(D) an additional type of educational or training institution as defined by the Secretary of Labor.

Such an individual is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 4 months and if he shows to the satisfaction of the Secretary that he has a bona fide intention of continuing to pursue a full-time course of study or training during the semester or other enrollment period immediately after the interim or during periods of reasonable duration during which, in the judgment of the Secretary, he is prevented by factors beyond his control from pursuing his education. A student whose 23rd birthday occurs during a semester or other enrollment period is deemed a student until the end of the semester or other enrollment period;

(18) "price index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics; and

(19) "base month" means the month of July 1966 and each later month which is used as a basis for calculating an increase under section 8146a of this title.

(20) "organ" means a part of the body that performs a special function, and for purposes of this subchapter excludes the brain, heart, and back; and

(21) "United States medical officers and hospitals" includes medical officers and hospitals of the Army, Navy, Air Force, Veterans' Administration, and United States Public Health Service, and any other medical officer or hospital designated as a United States medical officer or hospital by the Secretary of Labor.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 532; Pub. L. 90-83, § 1(4), (48), Sept. 11, 1967, 81 Stat. 196, 209; Pub. L. 93-416, § 1, Sept. 7, 1974, 88 Stat. 1143.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(1)-(5) (12)-(16)	5 U.S.C. 790	Sept. 7, 1916, ch. 458, § 40, 39 Stat. 750.
		June 5, 1924, ch. 261, § 2, 43 Stat. 389.
		May 31, 1938, ch. 293, 52 Stat. 586.
		Apr. 11, 1940, ch. 79, § 1, 54 Stat. 105.
		July 1, 1944, ch. 373, § 605(b), 58 Stat. 712.
		Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049.
		Oct. 14, 1949, ch. 691, § 108, 63 Stat. 860.
		July 30, 1956, ch. 779, § 3(b), 70 Stat. 721.
		Aug. 1, 1956, ch. 837, § 501(e), 70 Stat. 883.
		Aug. 8, 1958, Pub. L. 85-608, § 302, 72 Stat. 539.
		Sept. 13, 1960, Pub. L. 86-767, § 208, 74 Stat. 908.
		Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919.
	5 U.S.C. 794 (1st sentence)	July 11, 1919, ch. 7, § 11 (1st sentence), 41 Stat. 104.
	[Uncodified]	Aug. 25, 1958, Pub. L. 85-745, § 1(b) (last sentence, as applicable to the Federal Employees' Compensation Act), 72 Stat. 838.
(6)-(10)	5 U.S.C. 760(H)	Sept. 7, 1916, ch. 458, § 10(H), 39 Stat. 745.
		Feb. 12, 1927, ch. 110, § 2, 44 Stat. 1087.
(11)	5 U.S.C. 760(B) (last 23 words of 1st sentence)	Sept. 7, 1916, ch. 458, § 10(B) (last 15 words of 1st sentence), 39 Stat. 744.
		Oct. 14, 1949, ch. 691, § 106(c) "(B) (last 23 words of 1st sentence)", 63 Stat. 859.

Former section 790(a) is omitted as unnecessary in view of section 1 of title 1, United States Code.

Former section 790(c) is omitted as unnecessary as the term "commission" is not used in this subchapter.

Former section 790(i) is omitted as unnecessary as the title "Secretary of Labor" (substituted for "Federal Security Administrator" by 1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 64 Stat. 1271) is fully set out the first time it is used in each section.

In paragraph (1)(B), the words "to the United States" are substituted for "to any department, independent establishment, or agency thereof (including instrumentalities of the United States wholly owned by it)".

In paragraph (1)(C), the words "subsequent to September 7, 1916" are omitted as obsolete.

In paragraph (1)(iv), the words "under sections 521-535 of title 4, District of Columbia Code" are substituted for "under the provisions of the District of Columbia Appropriation Act approved September 1, 1916".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8101(17)	5 App.: 760(M)	July 4, 1966, Pub. L. 89-488, §§ 7(c), 14 "Sec. 43(c)", 80 Stat. 254, 256.
8101(18)	5 App.: 793a(c) (1).	
8101(19)	5 App.: 793a(c) (2).	

Paragraph (17) is reorganized and restated for clarity and to conform to the style of title 5, United States Code. In clause (D), the words "Secretary of Labor" are substituted for "Secretary" on authority of section 40(i) of the Federal Employees' Compensation Act.

In paragraph (19), the words "July 1966 and each later month" are substituted for "the month this section becomes effective and each month thereafter". The words "section 8146a of this title" are substituted for "this section" to reflect the codification of section 43 in title 5.

REFERENCES IN TEXT

The Act of August 25, 1958, 72 Stat. 838, referred to in par. (1)(E), is set out as a note under section 102 of Title 3, The President.

AMENDMENTS

1974—Par. (1)(D). Pub. L. 93-416, § 1(g), deleted the word "and" after the semicolon.

Par. (1)(F). Pub. L. 93-416, § 1(a), added par. (1)(F).

Par. (2). Pub. L. 93-416, § 1(b), expanded the definition of "physician" to include podiatrists, dentists, clinical psychologists, optometrists, and chiropracters and added the provision limiting the extent to which chiropracters are included.

Par. (3). Pub. L. 93-416, § 1(c), included within "medical, surgical, and hospital services and supplies" those supplied by podiatrists, dentists, clinical psychologists, optometrists, and chiropracters and limited the reimbursable services of chiropracters.

Par. (5). Pub. L. 93-416, § 1(d), added to the definition of "injury" damage to or destruction of medical braces, artificial limbs, and other prosthetic devices and excepted eyeglasses and hearing aids unless damage or destruction is incidental to a personal injury requiring medical services.

Par. (11). Pub. L. 93-416, § 1(e), substituted "the husband living with or dependent for support on the decedent at the time of her death, or living apart for reasonable cause because of her desertion" for "one who, because of physical or mental disability, was wholly dependent for support on the employee at the time of her death" as the definition of "widower".

Pars. (20), (21). Pub. L. 93-416, § 1(f), added pars. (20) and (21).

1967—Pub. L. 90-83, § 1(4), substituted "Environmental Science Services Administration" for "Coast and Geodetic Survey" in par. (1) (iii). See Reviser's Note under section 2101 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 28(a) of Pub. L. 93-416 provided that: "Except as otherwise provided by this section this Act [enacting section 8151 of this title, amending this section and sections 8103, 8104, 8107, 8110, 8111, 8113, 8116, 8117, 8118, 8119, 8121, 8122, 8132, 8135, 8142, 8143, 8146a of this title, repealing section 3315a of this title, and enacting provisions set out as notes under this section and section 8116 of this title] shall take effect on the date of enactment [Sept. 7, 1974] and be applicable to any injury or death occurring on or after such effective date [Sept. 7, 1974]. The amendments made by sections 1(b) and (c) [amending this section], 2 [amending section 8103 of this title], 3 [amending section 8104 of this title], 7(a) and (b) [amending section 8111 of this title], 8(a) [amending section 8113 of this title], 8(b) [amending section 8143 of this title], 9 [amending section 8116 of this title], 16(a) [amending section 8133 of this title], 16(b) [amending section 8135 of this title], 17 [amending section 8133 of this title], 19 [amending section 8135 of this title], 20 [amending section 8135 of this title], 21 [amending section 8146a of this title], 22 [enacting section 8151 of this title], 24 [amending section 8146a of this title], and 25 [amending section 8147 of this title], shall be applicable to cases where the injury or death occurred prior to the date of enactment [Sept. 7, 1974] but the provisions of these sections shall be applicable only to a period beginning on or after the date of enactment [Sept. 7, 1974]."

TRANSFER OF FUNCTIONS

The Environmental Science Services Administration in the Department of Commerce, including the offices of Administrator and Deputy Administrator thereof, were abolished by Reorg. Plan No. 4 of 1970, eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title, which created the National Oceanic and Atmospheric Administration in the Department of Commerce and transferred the personnel, property, records, and unexpended balances of funds of the Environmental Science Services Administration to such newly created National Oceanic and Atmospheric Administration. The components of the Environmental Science Services Administration thus transferred included the Weather Bureau [now the National Weather Service], the Coast and Geodetic Survey [now the National Ocean Survey], the Environmental Data Services, the National Environmental Satellite Center, and the ESSA Research Laboratories.

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out in the Appendix to this title.

PROCESSING OF CLAIMS FILED BY DISTRICT OF COLUMBIA EMPLOYEES

Pub. L. 93-198, title II, § 204(e), Dec. 24, 1973, 87 Stat. 783, provided that: "All functions of the Secretary under chapter 81 of title 5 of the United States Code, with respect to the processing of claims filed by employees of the government of the District for compensation for work injuries, are transferred to and shall be exercised by the Commissioner, effective the day after the day on which the District establishes an independent personnel system or systems."

STUDY AND REPORT TO CONGRESS BY SECRETARY OF LABOR OF PROVISIONS AND PROGRAMS UNDER SUBCHAPTER

Section 27 of Pub. L. 93-416 provided that the Secretary of Labor was to conduct a study of the provisions of this subchapter and its programs which was to include: hearings, research, and other activities necessary to formulate recommendations; an examination of need for authority to increase allowances for services of attendants above the maximum fixed by section 8111 of this title in exceptional circumstances; an examination of the effectiveness of this subchapter; and recommendations as to survivor benefits. The Secretary was to report the results of the study together with his findings and recommendations not later than 12 months after Sept. 7, 1974.

CROSS REFERENCES

Applicability of this subchapter to compensation for injury, death, or detention of employees of contractors with United States outside of the United States, see sections 1701 to 1706 and 1711 to 1717 of Title 42, The Public Health and Welfare.

Civil Service disability retirement annuity and compensation for injury or disability under this subchapter covering the same period of time as mutually exclusive, see section 8337 of this title.

Compensation for injury or death of temporary members of Reserve and Auxiliary members of Coast Guard, see section 760 of Title 14, Coast Guard.

Compensation under Defense Base Act for disability or death to persons employed at Military, Air, and Naval Bases outside the United States not to include employees covered by this subchapter, see section 1654 of Title 42, The Public Health and Welfare.

Dependency and indemnity compensation for service connected deaths, see section 416 of Title 38, Veterans' Benefits.

Foreign Service personnel, retirement due to disability or incapacity, see section 1081 of Title 22, Foreign Relations and Intercourse.

International organizations, coverage of employees transferring to, see section 3582 of this title.

Internees under War Claims Act, see section 2004 of Title 50 App., War and National Defense.

Saint Lawrence Seaway Development Corporation, contributions to fund, see section 987 of Title 33, Navigation and Navigable Waters.

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3373, 3374, 7902, 8110, 8118, 8133, 8191, 8192 of this title; title 16 sections 1a-6, 18i, 558c; title 22 section 2679a; title 29 section 926; title 30 section 902; title 42 sections 3796b, 5055.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8102. Compensation for disability or death of employee

(a) The United States shall pay compensation as specified by this subchapter for the disability or death of an employee resulting from personal injury sustained while in the performance of his duty, unless the injury or death is—

(1) caused by willful misconduct of the employee;

(2) caused by the employee's intention to bring about the injury or death of himself or of another; or

(3) proximately caused by the intoxication of the injured employee.

(b) Disability or death from a war-risk hazard or during or as a result of capture, detention, or other restraint by a hostile force or individual, suffered by an employee who is employed outside the continental United States or in Alaska or in the Canal Zone, is deemed to have resulted from personal injury sustained while in the performance of his duty, whether or not the employee was engaged in the course of employment when the disability or disability resulting in death occurred or when he was taken by the hostile force or individual. This subsection does not apply to an individual—

(1) whose residence is at or in the vicinity of the place of his employment and who was not living there solely because of the exigencies of his employment, unless he was injured or taken while engaged in the course of his employment; or

(2) who is a prisoner of war or a protected individual under the Geneva Conventions of 1949 and is detained or utilized by the United States.

This subsection does not affect the payment of compensation under this subchapter derived otherwise than under this subsection, but compensation for disability or death does not accrue for a period for which pay, other benefit, or gratuity from the United States accrues to the disabled individual or his dependents on account of detention by the enemy or because of the same disability or death, unless that pay, benefit, or gratuity is refunded or renounced.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 534.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 751	Sept. 7, 1916, ch. 458, § 1, 39 Stat. 742. Aug. 8, 1958, Pub. L. 85-608, § 301, 72 Stat. 538.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8103. Medical services and initial medical and other benefits

(a) The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation. These services, appliances, and supplies shall be furnished—

(1) whether or not disability has arisen;

(2) notwithstanding that the employee has accepted or is entitled to receive benefits under subchapter III of chapter 83 of this title or another retirement system for employees of the Government; and

(3) by or on the order of United States medical officers and hospitals, or, at the employee's option, by or on the order of phy-

sicians and hospitals designated or approved by the Secretary.

The employee may initially select a physician to provide medical services, appliances, and supplies, in accordance with such regulations and instructions as the Secretary considers necessary, and may be furnished necessary and reasonable transportation and expenses incident to the securing of such services, appliances, and supplies. These expenses, when authorized or approved by the Secretary, shall be paid from the Employees' Compensation Fund.

(b) The Secretary, under such limitations or conditions as he considers necessary, may authorize the employing agencies to provide for the initial furnishing of medical and other benefits under this section. The Secretary may certify vouchers for these expenses out of the Employees' Compensation Fund when the immediate superior of the employee certifies that the expense was incurred in respect to an injury which was accepted by the employing agency as probably compensable under this subchapter. The Secretary shall prescribe the form and content of the certificate.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 535; Pub. L. 90-83, § 1(49), Sept. 11, 1967, 81 Stat. 209; Pub. L. 93-416, § 2, Sept. 7, 1974, 88 Stat. 1144.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 759(a)	Sept. 7, 1916, ch. 458, § 9, 39 Stat. 743.
		June 26, 1926, ch. 695, § 1, 44 Stat. 772.
		Oct. 14, 1949, ch. 691, § 202(b), 63 Stat. 862.
		Sept. 13, 1960, Pub. L. 86-767, § 203, 74 Stat. 907.

In subsection (b), the words "when the immediate superior of the employee certifies" are substituted for "upon certification by the person required by section 774 of this title to make reports of injury".

The last sentence of former section 759(a) is omitted as executed.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8103(a)(2)	5 App.: 759(a).	July 4, 1966, Pub. L. 89-488, § 5(b), 80 Stat. 253.

The words "another retirement system for employees of the Government" are substituted for "any other Federal Act or program providing retirement benefits for employees".

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-416 substituted "at the employee's option" for "when this is not practicable", deleted the word "private" preceding "physicians and hospitals" in par. (3), and, in the provision following par. (3), added authorization for the employee to initially select a physician in accordance with such regulations and instructions considered necessary by the Secretary.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Section 7 of Pub. L. 90-83 provided that: "Nothing in this or any other Act makes the increases authorized by section 1(49)—(52) [amending this section and sections 8107, 8108, and 8109 of this title], 53(B) and (C) [amending section 8110 of this title], (54)—(58) [amending section 8111, 8112, 8116, 8122, and 8124 of this title], (60) [amending section 8131 of this title], (61) [amending section 8132 of this title], (62) (B) [amending section 8133(e) of this title], (63) [amending section 8135 of this title], (67) [adding section 8146a of this title], (68) [amending section 8147 of this title], and (71) [amending section 8149 of this title] of this Act applicable to—

"(1) an employee or individual not within the definition of 'employee' in section 8101(1) (A), (B), or (D) of title 5, United States Code;

"(2) a member of the Metropolitan Police or the Fire Department of the District of Columbia who is pensioned or pensionable under sections 521—535 of title 4, District of Columbia Code; or

"(3) a member of a uniformed service."

CROSS REFERENCES

Medical examination and treatment of Federal employees by Public Health Service, see section 251 of Title 42, The Public Health and Welfare.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8104, 8117, 8146 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8104. Vocational rehabilitation

(a) The Secretary of Labor may direct a permanently disabled individual whose disability is compensable under this subchapter to undergo vocational rehabilitation. The Secretary shall provide for furnishing the vocational rehabilitation services. In providing for these services, the Secretary, insofar as practicable, shall use the services or facilities of State agencies and corresponding agencies which cooperate with the Secretary of Health, Education, and Welfare in carrying out the purposes of chapter 4 of title 29, except to the extent that the Secretary of Labor provides for furnishing these services under section 8103 of this title. The cost of providing these services to individuals undergoing vocational rehabilitation under this section shall be paid from the Employees' Compensation Fund. However, in reimbursing a State or corresponding agency under an arrangement pursuant to this section the cost to the agency reimbursable in full under section 32(b)(1) of title 29 is excluded.

(b) Notwithstanding section 8106, individuals directed to undergo vocational rehabilitation by the Secretary shall, while undergoing such rehabilitation, receive compensation at the rate provided in sections 8105 and 8110 of this title, less the amount of any earnings received from remunerative employment, other than employment undertaken pursuant to such rehabilitation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 535; Pub. L. 93-416, § 3, Sept. 7, 1974, 88 Stat. 1144.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 759(b)	Oct. 14, 1949, ch. 691, § 202(a), 63 Stat. 862.

In the third sentence, the words "the Secretary of Health, Education, and Welfare" are substituted for "him", referring to the Administrator, on authority of section 1 (proviso) of 1950 Reorg. Plan No. 19, 64 Stat. 1271, and section 5 of 1953 Reorg. Plan No. 1, 67 Stat. 632.

The words "State agencies or corresponding agencies" are substituted for "State agencies (or corresponding agencies in Territories or possessions)" as the agencies available for cooperation are set out in the Vocational Rehabilitation Act (chapter 4 of title 29).

The words "section 32(b)(1) of title 29" are substituted for "section 33(a) (4) of title 29" on authority of the Act of Aug. 3, 1954, ch. 655, § 2, 68 Stat. 652. Reference is limited to section 32(b)(1) since section 32(b) (2), (3) is obsolete.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

References in Text

"Chapter 4 of title 29", referred to in subsec. (a), refers to the Vocational Rehabilitation Act, act June 2, 1920, ch. 219, 41 Stat. 735, as amended. "Section 32(b)(1) of title 29", also referred to in subsec. (a) (enacted Sept. 6, 1966), did not reflect amendment of section 32(b) by Pub. L. 89-333 § 2(a), Nov. 8, 1965, 79 Stat. 1282, which eliminated obsolete pars. (2) and (3) and redesignated par. (1) provisions as subsec. (b) and amended such subsection. Section 32(b) of title 29, refers to section 2(b) of act June 2, 1920, as amended. Such provisions were repealed by section 500(a) of Pub. L. 93-112, title V, Sept. 26, 1973, 87 Stat. 390, and pursuant to section 500(a) of Pub. L. 93-112, which also provides that references to the Vocational Rehabilitation Act in other provisions of law shall be deemed a reference to the Rehabilitation Act of 1973, and are now covered by sections 701 et seq. and 731(a), respectively, of Title 29, Labor.

Amendments

1974—Pub. L. 93-416 designated existing provisions as subsec. (a) and added subsec. (b).

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Section Referred to in Other Sections

This section is referred to in sections 8111, 8113, 8117 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8105. Total disability

(a) If the disability is total, the United States shall pay the employee during the disability monthly monetary compensation equal to 66⅔ percent of his monthly pay, which is known as his basic compensation for total disability.

(b) The loss of use of both hands, both arms, both feet, or both legs, or the loss of sight of both eyes, is prima facie permanent total disability.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 535.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 753	Sept. 7, 1916, ch. 458, § 3, 39 Stat. 743. Oct. 14, 1949, ch. 691, § 102, 63 Stat. 855.

In subsection (a), the words "Except as otherwise provided in sections 751-756, 757-781, 783-791, and 793 of this title" are omitted as surplusage.

In subsection (b), the words "Loss, or" are omitted as included in "loss of use of". The words "or the loss of sight of both eyes" are substituted for "or both eyes or the sight thereof".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in sections 8104, 8107, 8110 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8106. Partial disability

(a) If the disability is partial, the United States shall pay the employee during the disability monthly monetary compensation equal to 66⅔ percent of the difference between his monthly pay and his monthly wage-earning capacity after the beginning of the partial disability, which is known as his basic compensation for partial disability.

(b) The Secretary of Labor may require a partially disabled employee to report his earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies. The employee shall include in the affidavit or report the value of housing, board, lodging, and other advantages which are part of his earnings in employment or self-employment and which can be estimated in money. An employee who—

(1) fails to make an affidavit or report when required; or

(2) knowingly omit or understates any part of his earnings;

forfeits his right to compensation with respect to any period for which the affidavit or report was required. Compensation forfeited under this subsection, if already paid, shall be recovered by a deduction from the compensation payable to the employee or otherwise recovered under section 8129 of this title, unless recovery is waived under that section.

(c) A partially disabled employee who—

(1) refuses to seek suitable work; or

(2) refuses or neglects to work after suitable work is offered to, procured by, or secured for him;

is not entitled to compensation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 536.)

Historical and Revision Notes

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 754	Sept. 7, 1916, ch. 458, § 4, 39 Stat. 743. Oct. 14, 1949, ch. 691, § 103(a), 63 Stat. 855.

In subsection (a), the words "Except as otherwise provided in sections 751-756, 757-781, 783-791, and 793 of this title" are omitted as surplusage.

In subsection (b), the word "remuneration" is omitted as covered by the word "earnings".

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in sections 8104, 8107, 8110 of this title; title 18 section 1920.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8107. Compensation schedule

(a) If there is permanent disability involving the loss, or loss of use, of a member or function of the body or involving disfigurement, the employee is entitled to basic compensation for the disability, as provided by the schedule in subsection (c) of this section, at the rate of 66⅔ percent of his monthly pay. The basic compensation is—

(1) payable regardless of whether the cause of the disability originates in a part of the body other than that member;

(2) payable regardless of whether the disability also involves another impairment of the body; and

(3) in addition to compensation for temporary total or temporary partial disability.

(b) With respect to any period after payments under subsection (a) of this section have ended, an employee is entitled to compensation as provided by—

(1) section 8105 of this title if the disability is total; or

(2) section 8106 of this title if the disability is partial.

(c) The compensation schedule is as follows:

(1) Arm lost, 312 weeks' compensation.

(2) Leg lost, 288 weeks' compensation.

(3) Hand lost, 244 weeks' compensation.

(4) Foot lost, 205 weeks' compensation.

(5) Eye lost, 160 weeks' compensation.

(6) Thumb lost, 75 weeks' compensation.

(7) First finger lost, 46 weeks' compensation.

(8) Great toe lost, 38 weeks' compensation.

(9) Second finger lost, 30 weeks' compensation.

(10) Third finger lost, 25 weeks' compensation.

(11) Toe other than great toe lost, 16 weeks' compensation.

(12) Fourth finger lost, 15 weeks' compensation.

(13) Loss of hearing—

(A) complete loss of hearing of one ear, 52 weeks' compensation; or

(B) complete loss of hearing of both ears, 200 weeks' compensation.

(14) Compensation for loss of binocular vision or for loss of 80 percent or more of the vision of an eye is the same as for loss of the eye.

(15) Compensation for loss of more than one phalanx of a digit is the same as for loss of the entire digit. Compensation for loss of the first phalanx is one-half of the compensation for loss of the entire digit.

(16) If, in the case of an arm or a leg, the member is amputated above the wrist or ankle, compensation is the same as for loss of the arm or leg, respectively.

(17) Compensation for loss of use of two or more digits, or one or more phalanges of each of two or more digits, of a hand or foot, is proportioned to the loss of use of the hand or foot occasioned thereby.

(18) Compensation for permanent total loss of use of a member is the same as for loss of the member.

(19) Compensation for permanent partial loss of use of a member may be for proportionate loss of use of the member. The degree of loss of vision or hearing under this schedule is determined without regard to correction.

(20) In case of loss of use of more than one member or parts of more than one member as enumerated by this schedule, the compensation is for loss of use of each member or part thereof, and the awards run consecutively. However, when the injury affects only two or more digits of the same hand or foot, paragraph (17) of this subsection applies, and when partial bilateral loss of hearing is involved, compensation is computed on the loss as affecting both ears.

(21) For serious disfigurement of the face, head, or neck of a character likely to handicap an individual in securing or maintaining employment, proper and equitable compensation not to exceed $3,500 shall be awarded in addition to any other compensation payable under this schedule.

(22) For permanent loss or loss of use of any other important external or internal organ of the body as determined by the Secretary, proper and equitable compensation not to exceed 312 weeks' compensation for each organ so determined shall be paid in addition to any other compensation payable under this schedule.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 536; Pub. L. 90-83, § 1(50), Sept. 11, 1967, 81 Stat. 210; Pub. L. 93-416, §§ 4, 5, Sept. 7, 1974, 88 Stat. 1144, 1145.)

Historical and Revision Notes

1966 Act

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 755 (a), (b)	Sept. 7, 1916, ch. 458, § 5, 39 Stat. 743. Oct. 14, 1949, ch. 691, § 104 "Sec. 5 (a), (b)", 63 Stat. 855. Sept. 13, 1960, Pub. L. 86-767, § 201, 74 Stat. 907.

The words "loss, or" are omitted throughout this section as included in "loss of use of".

In subsection (a)(B), the words "under sections 751-754 of this title" are omitted as surplusage.

In subsection (b)(1), the words "(including paragraphs (16) and (20) thereof)" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8107(a), (b).	5 App.: 755(a), (b).	July 4, 1966, Pub. L. 89-488, § 2(a), (b), 80 Stat. 252.

In subsection (a), the words "If there is" are substituted for "In any case of". The words "loss, or" are omitted as included in "loss of use of" and to conform to the remainder of the section. The words "the employee is entitled to basic compensation for the disability" are substituted for "basic compensation for such disability shall be payable to the disabled employee". The words "by the schedule in subsection (c) of this section" are substituted for "in the following schedule" to reflect the codification of the schedule in subsection (c). The words "The schedule referred to in the first sentence is as follows:" are omitted as unnecessary in view of the codification of that schedule in subsection (c).

In subsection (b), the words "an employee is entitled to compensation" are substituted for "compensation shall be paid" for consistency with subsection (a). In subsections (b) (1) and (2), the words "section 8105 of this title" and "section 8106 of this title" are substituted for "section 3" and "subsection (a) of section 4", respectively, to reflect the codification of title 5.

Amendments

1974—Subsec. (a). Pub. L. 93-416, § 4, substituted "involving the loss, or loss of use" for "involving the loss of use".

Subsec. (c). Pub. L. 93-416, § 5, added subpar. (22).

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after such effective date, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Personnel Not Affected by 1967 Increase

Increases authorized under amendment of this section by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

Cross References

Right to compensation for scheduled disabilities specified by subsec. (c) of this section not impaired by eligibility for benefits under subchapter III of chapter 83 of this title, see section 8116 of this title.

Section Referred to in Other Sections

This section is referred to in sections 8108, 8109, 8110, 8115, 8116 of this title; title 18 section 1921; title 22 section 1081.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8108. Reduction of compensation for subsequent injury to same member

The period of compensation payable under the schedule in section 8107(c) of this title is reduced by the period of compensation paid or payable under the schedule for an earlier injury if—

(1) compensation in both cases is for disability of the same member or function or different parts of the same member or function or for disfigurement; and

(2) the Secretary of Labor finds that compensation payable for the later disability in whole or in part would duplicate the compensation payable for the preexisting disability.

In such a case, compensation for disability continuing after the scheduled period starts on expiration of that period as reduced under this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 538; Pub. L. 90-83, § 1(51), Sept. 11, 1967, 81 Stat. 210.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 755(c)	Oct. 14, 1949, ch. 691, § 104 "Sec. 5(c)", 63 Stat. 857.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8108	5 App.: 755(c)	July 4, 1966, Pub. L. 89-488, § 2(c), 80 Stat. 252.

Personnel Not Affected by 1967 Increase

Increases authorized under amendment of this section by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

Section Referred to in Other Sections

This section is referred to in section 8115 of this title; title 18 section 1921.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8109. Beneficiaries of awards unpaid at death; order of precedence

(a) If an individual—

(1) has sustained disability compensable under section 8107(a) of this title;

(2) has filed a valid claim in his lifetime; and

(3) dies from a cause other than the injury before the end of the period specified by the schedule;

the compensation specified by the schedule that is unpaid at his death, whether or not accrued or due at his death, shall be paid—

(A) under an award made before or after the death;

(B) for the period specified by the schedule;

(C) to and for the benefit of the persons then in being within the classes and proportions and on the conditions specified by this section; and

(D) in the following order of precedence:

(i) If there is no child, to the widow or widower.

(ii) If there are both a widow or widower and a child or children, one-half to the widow or widower and one-half to the child or children.

(iii) If there is no widow or widower, to the child or children.

(iv) If there is no survivor in the above classes, to the parent or parents wholly or partly dependent for support on the decedent, or to other wholly dependent relatives listed by section 8133(a)(5) of this title, or to both in proportions provided by regulation.

(v) If there is no survivor in the above classes and no burial allowance is payable under section 8134 of this title, an amount not exceeding that which would be expendable under section 8134 of this title if applicable shall be paid to reimburse a person equitably entitled thereto to the extent and in the proportion that he has paid the burial expenses, but a compensated insurer or other person obligated by law or contract to pay the burial expenses or a State or political subdivision or entity is deemed not equitably entitled.

(b) Payments under subsection (a) of this section, except for an amount payable for a period preceding the death of the individual, are at the basic rate of compensation for permanent disability specified by section 8107(a) of this title even if at the time of death the individual was entitled to the augmented rate specified by section 8110 of this title.

(c) A surviving beneficiary under subsection (a) of this section, except one under subsection (a)(D)(v), does not have a vested right to payment and must be alive to receive payment.

(d) A beneficiary under subsection (a) of this section, except one under subsection (a)(D)(v), ceases to be entitled to payment on the happening of an event which would terminate his right to compensation for death under section 8133 of this title. When that entitlement ceases, compensation remaining unpaid under subsection (a) of this section is payable to the surviving beneficiary in accordance with subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 538; Pub. L. 90-83, § 1(52), Sept. 11, 1967, 81 Stat. 210.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 755(d)	Oct. 14, 1949, ch. § 691, § 104 "Sec. 5(d)", 63 Stat. 857.

The references in former section 755(d) to definitions in former section 760(B), (H) are omitted as unnecessary as the definitions are included in section 8101 for the entire subchapter.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8109(a)(1)	5 App.: 755(d)(1).	July 4, 1966, Pub. L. 89-488, § 2(d), 80 Stat. 252.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment of this section by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8115 of this title; title 18 section 1921.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8110. Augmented compensation for dependents

(a) For the purpose of this section, "dependent" means—

(1) a wife, if—

(A) she is member of the same household as the employee;

(B) she is receiving regular contributions from the employee for her support; or

(C) the employee has been ordered by a court to contribute to her support;

(2) a husband, if—

(A) he is a member of the same household as the employee; or

(B) he is receiving regular contributions from the employee for his support; or

(C) the employee has been ordered by a court to contribute to his support;

(3) an unmarried child, while living with the employee or receiving regular contributions from the employee toward his support, and who is—

(A) under 18 years of age; or

(B) over 18 years of age and incapable of self-support because of physical or mental disability; and

(4) a parent, while wholly dependent on and supported by the employee.

Notwithstanding paragraph (3) of this subsection, compensation payable for a child that would otherwise end because the child has reached 18 years of age shall continue if he is a student as defined by section 8101 of this title at the time he reaches 18 years of age for so long as he continues to be such a student or until he marries.

(b) A disabled employee with one or more dependents is entitled to have his basic compensation for disability augmented—

(1) at the rate of 8⅓ percent of his monthly pay if that compensation is payable under section 8105 or 8107(a) of this title; and

(2) at the rate of 8⅓ percent of the difference between his monthly pay and his monthly wage-earning capacity if that compensation is payable under section 8106(a) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 539; Pub. L. 90-83, § 1(53), Sept. 11, 1967, 81 Stat. 210; Pub. L. 93-416, § 6, Sept. 7, 1974, 88 Stat. 1145.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 756(a)	Sept. 7, 1916, ch. 458, § 6, 39 Stat. 743. Feb. 12, 1927, ch. 110, § 1, 44 Stat. 1086. May 13, 1936, ch. 382, 49 Stat. 1270. Oct. 14, 1949, ch. 691, § 105 "Sec. 6(a)", 63 Stat. 858.

The references in former section 756(a)(2) to definitions in former section 760(H) are omitted as unnecessary as the definitions are included in section 8101 for the entire subchapter.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8110(a)	5 App.: 756(a)(2)(C).	July 4, 1966, Pub. L. 89-488, § 7(b), 80 Stat. 254.
8110(b)	5 App.: 756(a)(1).	July 4, 1966, Pub. L. 89-488 §§ 2(e), 3(a), 80 Stat. 252.

In subsection (a), the words "Notwithstanding paragraph (3) of this subsection" are substituted for "Notwithstanding any other provision of this section" for clarity. The word "he" is substituted for "he or she" in two places on authority of 1 U.S.C. 1. The words "section 8101 of this title" are substituted for "section 10(M) of this Act" to reflect the codification of that section in title 5.

Amendments

1974—Subsec. (a)(2). Pub. L. 93-416 substituted provisions of subpars. (A), (B) and (C) for "wholly dependent on the employee for support because of his own physical or mental disability".

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after such effective date, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Personnel Not Affected by 1967 Increase

Increases authorized under amendment of this section by section 1(53)(B) and (C) of Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

Section Referred to in Other Sections

This section is referred to in sections 8104, 8109, 8112 of this title; title 18 section 1921.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8111. Additional compensation for services of attendants or vocational rehabilitation

(a) The Secretary of Labor may pay an employee who has been awarded compensation an additional sum of not more than $500 a month, as the Secretary considers necessary, when the Secretary finds that the service of an attendant is necessary constantly because the employee is totally blind, or has lost the use of both hands or both feet, or is paralyzed and unable to walk, or because of other disability resulting from the injury making him so helpless as to require constant attendance.

(b) The Secretary may pay an individual undergoing vocational rehabilitation under section 8104 of this title additional compensation necessary for his maintenance, but not to exceed $200 a month.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 539; Pub. L. 90-83, § 1(54), Sept. 11, 1967, 81 Stat. 210; Pub. L. 93-416, § 7, Sept. 7, 1974, 88 Stat. 1145.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 756(b)	Oct. 14, 1949, ch. 691, § 105 "Sec. 6(b)", 63 Stat. 858. Sept. 13, 1960, Pub. L. 86-767, § 101 (less last 13 words), 74 Stat. 906.

In subsection (a), the words "In addition to the monthly compensation otherwise specified in sections 751-756, 757-871, 783-791, and 793 of this title" are omitted as surplusage.

In subsection (b), the words "pursuant to the Secretary's direction" are omitted as unnecessary.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8111(a)	5 App.: 756(b)(1).	July 4, 1966, Pub. L. 89-488, § 4(a), 80 Stat. 253.

Amendments

1974—Subsec. (a). Pub. L. 93-416, § 7(a), substituted "$500" for "$300".

Subsec. (b). Pub. L. 93-416, § 7(b), substituted "$200" for "$100".

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Personnel Not Affected by 1967 Increase

Increases authorized under amendment of this section by section 1(54) of Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

Section Referred to in Other Sections

This section is referred to in section 8112 of this title; title 18 section 1921.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8112. Maximum and minimum monthly payments

Except as provided by section 8138 of this title, the monthly rate of compensation for disability, including augmented compensation under section 8110 of this title but not including additional compensation under section 8111 of this title, may not be more than 75 percent of the monthly pay of the maximum rate of basic pay for GS-15, and in case of total disability may not be less than 75 percent of the monthly pay of the minimum rate of basic pay for GS-2 or the amount of the monthly pay of the employee, whichever is less.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 540; Pub. L. 90-83, § 1(55), Sept. 11, 1967, 81 Stat. 210.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 756(c)	Oct. 14, 1949, ch. 691, § 105 "Sec. 6(c)", 63 Stat. 859. Sept. 13, 1960, Pub. L. 86-767, § 101 (last 13 words), 74 Stat. 906.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8112	5 App.: 756(c)	July 4, 1966, Pub. L. 89-488, § 3(b), 80 Stat. 252.

The words "maximum rate of basic pay for GS-15" and "minimum rate of basic pay for GS-2" are substituted for "highest rate of basic compensation provided for grade 15 of the General Schedule of the Classification Act of 1949" and "lowest rate of basic compensation provided for grade 2 by such General Schedule", respectively, for consistency of style within title 5 and to reflect the codification of the Classification Act of 1949 in title 5.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment of this section by section 1(55) of Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8138 of this title; title 18 section 1921.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8113. Increase or decrease of basic compensation

(a) If an individual—

(1) was a minor or employed in a learner's capacity at the time of injury; and

(2) was not physically or mentally handicapped before the injury;

the Secretary of Labor, on review under section 8128 of this title after the time the wage-earning capacity of the individual would probably have increased but for the injury, shall recompute prospectively the monetary compensation payable for disability on the basis of an assumed monthly pay corresponding to the probable increased wage-earning capacity.

(b) If an individual without good cause fails to apply for and undergo vocational rehabilitation when so directed under section 8104 of this title, the Secretary, on review under section 8128 of this title and after finding that in the absence of the failure the wage-earning capacity of the individual would probably have substantially increased, may reduce prospectively the monetary compensation of the individual in accordance with what would probably have been his wage-earning capacity in the absence of the failure, until the individual in good faith complies with the direction of the Secretary.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 540; Pub. L. 90-83, § 1(100), Sept. 11, 1967, 81 Stat. 220; Pub. L. 93-416, § 8(a), Sept. 7, 1974, 88 Stat. 1145.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 756(d)	Oct. 14, 1949, ch. 691, § 105 "Sec. 6(d)", 63 Stat. 859.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends section 8113(b) of title 5, United States Code, to conform to the source statute (sec. 6(d)(1) of the Federal Employees' Compensation Act, as amended (63 Stat. 859)).

AMENDMENTS

1974—Subsec. (b). Pub. L. 93-416 redesignated former subsec. (c) as (b). Former subsec. (b), which authorized the Secretary to prospectively recompute compensation because of decreased wage earning power after age 70, aside from injury, was deleted.

Subsec. (c). Pub. L. 93-416 redesignated former subsec. (c) as (b).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-416 applicable to case where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-83 effective as of Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8101, 8143 of this title; title 18 section 1921; title 29 section 926; title 42 section 5055.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8114. Computation of pay

(a) For the purpose of this section—

(1) "overtime pay" means pay for hours of service in excess of a statutory or other basic workweek or other basic unit of worktime, as observed by the employing establishment; and

(2) "year" means a period of 12 calendar months, or the equivalent thereof as specified by regulations prescribed by the Secretary of Labor.

(b) In computing monetary compensation for disability or death on the basis of monthly pay, that pay is determined under this section.

(c) The monthly pay at the time of injury is deemed one-twelfth of the average annual earnings of the employee at that time. When compensation is paid on a weekly basis, the weekly equivalent of the monthly pay is deemed one-fifty-second of the average annual earnings. However, for so much of a period of total disability as does not exceed 90 calendar days from the date of the beginning of compensable disability, the compensation, in the discretion of the Secretary of Labor, may be computed on the basis of the actual daily wage of the employee at the time of injury in which event he may be paid compensation for the days he would have worked but for the injury.

(d) Average annual earnings are determined as follows:

(1) If the employee worked in the employment in which he was employed at the time of his injury during substantially the whole year immediately preceding the injury and the employment was in a position for which an annual rate of pay—

(A) was fixed, the average annual earnings are the annual rate of pay; or

(B) was not fixed, the average annual earnings are the product obtained by multiplying his daily wage for the particular employment, or the average thereof if the daily wage has fluctuated, by 300 if he was employed on the basis of a 6-day workweek, 280 if employed on the basis of a 5½-day week, and 260 if employed on the basis of a 5-day week.

(2) If the employee did not work in employment in which he was employed at the time of his injury during substantially the whole year immediately preceding the injury, but the position was one which would have afforded employment for substantially a whole year, the average annual earnings are a sum equal to the average annual earnings of an employee of the same class working substantially the whole immediately preceding year in the same or similar employment by the United States in the same or neighboring place, as determined under paragraph (1) of this subsection.

(3) If either of the foregoing methods of determining the average annual earnings cannot be applied reasonably and fairly, the average annual earnings are a sum that reasonably represents the annual earning capacity of the injured employee in the employment in which he was working at the time of the injury having regard to the previous earnings of the employee in Federal employment, and of other employees of the United States in the same or most similar class working in the same or most similar employment in the same or neighboring location, other previous employment of the employee, or other relevant factors. However, the average annual earnings may not be less than 150 times the average daily wage the employee earned in the employment during the days employed within 1 year immediately preceding his injury.

(4) If the employee served without pay or at nominal pay, paragraphs (1), (2), and (3) of this subsection apply as far as practicable, but the average annual earnings of the employee may not exceed the minimum rate of basic pay for GS-15. If the average annual earnings cannot be determined reasonably and fairly in the manner otherwise provided by this section, the average annual earnings shall be determined at the reasonable value of the service performed but not in excess of $3,600 a year.

(e) The value of subsistence and quarters, and of any other form of remuneration in kind for services if its value can be estimated in money, and premium pay under section 5545(c)(1) of this title are included as part of the pay, but account is not taken of—

(1) overtime pay;

(2) additional pay or allowance authorized outside the United States because of differential in cost of living or other special circumstances; or

(3) bonus or premium pay for extraordinary service including bonus or pay for particularly hazardous service in time of war.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 540; Pub. L. 89-737, § 1(1), Nov. 2, 1966, 80 Stat. 1164.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 762	Sept. 7, 1916, ch. 458, § 12, 39 Stat. 746. Oct. 14, 1949, ch. 691, § 203, 63 Stat. 862.

In subsection (d)(4), the words "the minimum rate of basic pay for GS-15" are substituted for "the basic rate of annual compensation specified under the Classification Act of 1949, as amended, for positions in grade GS-15 at the bottom of such grade". In former section 762, the words "Classification Act of 1949" were substituted for "Classification Act of 1923" on authority of § 1106(a) of the Act of Oct. 28, 1949, ch. 782, 63 Stat. 972.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1966—Subsec. (e). Pub. L. 89-737 inserted reference to premium pay under section 5545(c)(1) of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 4 of Pub. L. 89-737 provided that: "The amendments made by this Act [amending subsec. (e) of this section and sections 8331(3) and 8704(c) of this title] apply with respect to premium pay payable from and after the first day of the first pay period which begins after the date of enactment of this Act [Nov. 2, 1966]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8115, 8133 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8115. Determination of wage-earning capacity

(a) In determining compensation for partial disability, except permanent partial disability compensable under sections 8107-8109 of this title, the wage-earning capacity of an employee is determined by his actual earnings if his actual earnings fairly and reasonably represent his wage-earning capacity. If the actual earnings of the employee do not fairly and reasonably represent his wage-earning capacity or if the employee has no actual earnings, his wage-earning capacity as appears reasonable under the circumstances is determined with due regard to—

(1) the nature of his injury;

(2) the degree of physical impairment;

(3) his usual employment;

(4) his age;

(5) his qualifications for other employment;

(6) the availability of suitable employment; and

(7) other factors or circumstances which may affect his wage-earning capacity in his disabled condition.

(b) Section 8114(d) of this title is applicable in determining the wage-earning capacity of an employee after the beginning of partial disability.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 542.)

HISTORICAL AND REVISION NOTES

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 763	Sept. 7, 1916, ch. 458, § 13, 39 Stat. 746. Oct. 14, 1949, ch. 691, § 204, 63 Stat. 864. Sept. 13, 1960, Pub. L. 86-767, § 204, 74 Stat. 908.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8116. Limitations on right to receive compensation

(a) While an employee is receiving compensation under this subchapter, or if he has been paid a lump sum in commutation of installment payments until the expiration of the period during which the installment payments would have continued, he may not receive salary, pay, or remuneration of any type from the United States, except—

(1) in return for service actually performed;

(2) pension for service in the Army, Navy, or Air Force;

(3) other benefits administered by the Veterans' Administration unless such benefits are payable for the same injury or the same death; and

(4) retired pay, retirement pay, retainer pay, or equivalent pay for service in the Armed Forces or other uniformed services, subject to the reduction of such pay in accordance with section 5532(b) of title 5, United States Code.

However, eligibility for or receipt of benefits under subchapter III of chapter 83 of this title, or another retirement system for employees of the Government, does not impair the right of the employee to compensation for scheduled disabilities specified by section 8107(c) of this title.

(b) An individual entitled to benefits under this subchapter because of his injury, or because of the death of an employee, who also is entitled to receive from the United States under a provision of statute other than this subchapter payments or benefits for that injury or death (except proceeds of an insurance policy), because of service by him (or in the case of death, by the deceased) as an employee or in the armed forces, shall elect which benefits he will receive. The individual shall make the election within 1 year after the injury or death or within a further time allowed for good cause by the Secretary of Labor. The election when made is irrevocable, except as otherwise provided by statute.

(c) The liability of the United States or an instrumentality thereof under this subchapter or any extension thereof with respect to the injury or death of an employee is exclusive and instead of all other liability of the United States or the instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and any other person otherwise entitled to recover damages from the United States or the instrumentality because of the injury or death in a direct judicial proceeding, in a civil action, or in admiralty, or by an administrative or judicial proceeding under a workmen's compensation statute or under a Federal tort liability statute. However, this subsection does not apply to a master or a member of a crew of a vessel.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 542; Pub. L. 90-83, § 1(56), Sept. 11, 1967, 81 Stat. 210; Pub. L. 93-416, § 9(a), Sept. 7, 1974, 88 Stat. 1145.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	U.S. Code	Revised Statutes and Statutes at Large
....	5 U.S.C. 757	Sept. 7, 1916, ch. 458, § 7, 39 Stat. 743. July 1, 1944, ch. 373, § 605(a), 58 Stat. 712. Aug. 13, 1946, ch. 958, § 5, 60 Stat. 1049. Oct. 14, 1949, ch. 691, § 201, 63 Stat. 861. July 30, 1956, ch. 779, § 3(b), 70 Stat. 721. Sept. 13, 1960, Pub. L. 86-767, § 202, 74 Stat. 907. Sept. 4, 1964, Pub. L. 88-581, § 4(b), 78 Stat. 919.

In subsection (a)(2), "Air Force" is added on authority of the Act of July 26, 1947, ch. 343, § 207(a), (f), 61 Stat. 502, and sections 8010—8013 of title 10, United States Code. This does not affect the operation of this subsection insofar as it concerns members of the Coast Guard whose pension is based in whole or in part on service with the Coast Guard when it operated as a part of the Navy.

In subsection (b), the reference to the definition of "employee" in former section 790 is omitted as unnecessary as the definition is included in section 8101 for the entire subchapter.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	Source (U.S. Code)	Source (Statutes at Large)
8116(a)	5 App.: 757(a)	July 4, 1966, Pub. L. 89-488, § 5(a), 80 Stat. 253.

The words "another retirement system for employees of the Government" are substituted for "any other Federal Act or program providing retirement benefits for employees".

Amendments

1974—Subsec. (a). Pub. L. 93-416 struck out "and" in cl. (1), substituted a semicolon for a period in cl. (2), and added cls. (3) and (4).

Effective Date of 1974 Amendment

Section 9(b) of Pub. L. 93-416 provided that: "The amendment made by this section [amending subsec. (a) of this section] shall be effective with respect to disability or death occurring before or after the date of enactment of this Act [Sept. 7, 1974] and without regard to any election under section 8116(b) of the Act [subsec. (b) of this section]; but no payment shall be made by reason of such amendment for any period prior to the date of enactment of this Act [Sept. 7, 1974]."

Personnel Not Affected by 1967 Increase

Increases authorized under amendment of this section by section 1(56) of Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8117. Time of accrual of right

An employee is not entitled to compensation for the first 3 days of temporary disability, except—

(1) when the disability exceeds 14 days;

(2) when the disability is followed by permanent disability; or

(3) as provided by sections 8103 and 8104 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 543; Pub. L. 93-416, § 10, Sept. 7, 1974, 88 Stat. 1145.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 752	Sept. 7, 1916, ch. 458, § 2, 39 Stat. 743. Oct. 14, 1949, ch. 691, § 101 (a), 63 Stat. 854.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1974—Pub. L. 93-416 substituted "14 days" for "21 days".

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Section Referred to in Other Sections

This section is referred to in section 8118 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8118. Continuation of pay; election to use annual or sick leave

(a) The United States shall authorize the continuation of pay of an employee, as defined in section 8101(1) of this title (other than those referred to in clause (B) or (E), who has filed a claim for a period of wage loss due to a traumatic injury with his immediate superior on a form approved by the Secretary of Labor within the time specified in section 8122(a)(2) of this title.

(b) Continuation of pay under this subchapter shall be furnished—

(1) without a break in time unless controverted under regulations of the Secretary;

(2) for a period not to exceed 45 days; and

(3) under accounting procedures and such other regulations as the Secretary may require.

(c) An employee may use annual or sick leave to his credit at the time the disability begins, but his compensation for disability does not begin, and the time periods specified by section 8117 of this title do not begin to run, until termination of pay as set forth in subsections (a) and (b) or the use of annual or sick leave ends.

(d) If a claim under subsection (a) is denied by the Secretary, payments under this section shall, at the option of the employee, be charged to sick or annual leave or shall be deemed overpayments of pay within the meaning of section 5584 of title 5, United States Code.

(e) Payments under this section shall not be considered as compensation as defined by section 8101(12) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 543; Pub. L. 93-416, § 11, Sept. 7, 1974, 88 Stat. 1145.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 758	Sept. 7, 1916, ch. 458, § 8, 39 Stat. 743. Oct. 14, 1949, ch. 691, § 101 (b), 63 Stat. 854.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1974—Pub. L. 93-416 inserted in section catchline the reference to continuation of pay, added subsecs. (a), (b), (d) and (e), designated existing provisions as subsec. (c), and in subsec. (c) as so designated, substituted "until termination of pay as set forth in subsections (a) and (b) or the use of annual or sick leave ends" for "until the use of the annual or sick leave ends".

Effective Date of 1974 Amendment

Section 28(b) of Pub. L. 93-416 provided that: "Section 11 of this Act [amending this section] shall become effective 60 days from enactment [Sept. 7, 1974] and be applicable to any injury occurring on or after such effective date."

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8119. Notice of injury or death

An employee injured in the performance of his duty, or someone on his behalf, shall give notice thereof. Notice of a death believed to be related to the employment shall be given by an eligible beneficiary specified in section 8133 of this title, or someone on his behalf. A notice of injury or death shall—

(a) be given within 30 days after the injury or death;

(b) be given to the immediate superior of the employee by personal delivery or by depositing it in the mail properly stamped and addressed;

(c) be in writing;

(d) state the name and address of the employee;

(e) state the year, month, day, and hour when and the particular locality where the injury or death occurred;

(f) state the cause and nature of the injury, or, in the case of death, the employment factors believed to be the cause; and

(g) be signed by and contain the address of the individual giving the notice.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 543; Pub. L. 93-416, § 12(a), Sept. 7, 1974, 88 Stat. 1146.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 765	Sept. 7, 1916, ch. 458, § 15, 39 Stat. 746.
	5 U.S.C. 766	Sept. 7, 1916, ch. 458, § 16, 39 Stat. 746.
(b)	5 U.S.C. 767	Sept. 7, 1916, ch. 458, § 17, 39 Stat. 746.

Subsection (b)(2) is added on authority of former section 770, which is carried into section 8122, to complete the coverage of this section.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1974—Pub. L. 93-416 substituted "or death" for"; failure to give" in section catchline, struck out designation of subsec. (a), redesignated cls. (1) to (7) as (a) to (g), and, as so redesignated, added provisions relating to notice of death and substituted "30 days" for "48 hours" in cl. (a), and struck out subsec. (b) relating to allowance of compensation.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-416 effective Sept. 7, 1974 and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Section Referred to in Other Sections

This section is referred to in section 8122 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8120. Report of injury

Immediately after an injury to an employee which results in his death or probable disability, his immediate superior shall report to the Secretary of Labor. The Secretary may—

(1) prescribe the information that the report shall contain;

(2) require the immediate superior to make supplemental reports; and

(3) obtain such additional reports and information from employees as are agreed on by the Secretary and the head of the employing agency.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 543.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 774(a)	Sept. 7, 1916, ch. 458, § 24, 39 Stat. 747.
....	5 U.S.C. 779	Sept. 7, 1916, ch. 458, § 28a, 39 Stat. 748. Oct. 14, 1949, ch. 691, § 205 (b), 63 Stat. 864.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 8141 of this title; title 18 section 1922.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8121. Claim

Compensation under this subchapter may be allowed only if an individual or someone on his behalf makes claim therefor. The claim shall—

(1) be made in writing within the time specified by section 8122 of this title;

(2) be delivered to the office of the Secretary of Labor or to an individual whom the Secretary may designate by regulation, or deposited in the mail properly stamped and addressed to the Secretary or his designee;

(3) be on a form approved by the Secretary;

(4) contain all information required by the Secretary;

(5) be sworn to by the individual entitled to compensation or someone on his behalf; and

(6) except in case of death, be accompanied by a certificate of the physician of the employee stating the nature of the injury and the nature and probable extent of the disability.

The Secretary may waive paragraphs (3)-(6) of this section for reasonable cause shown.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 543; Pub. L. 93-416, § 13, Sept. 7, 1974, 88 Stat. 1147.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 768	Sept. 7, 1916, ch. 458, § 18, 39 Stat. 746.
....	5 U.S.C. 769	Sept. 7, 1916, ch. 458, § 19, 39 Stat. 746.

The words "except as provided in section 788" in former section 768 are omitted as unnecessary as former section 788 dealt with recovery of overpayments after claims were made.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1974—Par. (3). Pub. L. 93-416 substituted "approved" for "furnished".

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-416 effective Sept. 7, 1974 and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 23(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Section Referred to in Other Sections

This section is referred to in section 8146 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8122. Time for making claim

(a) An original claim for compensation for disability or death must be filed within 3 years after the injury or death. Compensation for disability or death, including medical care in disability cases, may not be allowed if claim is not filed within that time unless—

(1) the immediate superior had actual knowledge of the injury or death within 30 days. The knowledge must be such to put the immediate superior reasonably on notice of an on-the-job injury or death; or

(2) written notice of injury or death as specified in section 8119 of this title was given within 30 days.

(b) In a case of latent disability, the time for filing claim does not begin to run until the employee has a compensable disability and is aware, or by the exercise of reasonable diligence should have been aware, of the causal relationship of the compensable disability to his employment. In such a case, the time for giving notice of injury begins to run when the employee is aware, or by the exercise of reasonable diligence should have been aware, that his condition is causally related to his employment, whether or not there is a compensable disability.

(c) The timely filing of a disability claim because of injury will satisfy the time requirements for a death claim based on the same injury.

(d) The time limitations in subsections (a) and (b) of this section do not—

(1) begin to run against a minor until he reaches 21 years of age or has had a legal representative appointed; or

(2) run against an incompetent individual while he is incompetent and has no duly appointed legal representative; or

(3) run against any individual whose failure to comply is excused by the Secretary on the ground that such notice could not be given because of exceptional circumstances.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 544; Pub. L. 90-83, § 1(57), Sept. 11, 1967, 81 Stat. 210; Pub. L. 93-416, § 14, Sept. 7, 1974, 88 Stat. 1147.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 770	Sept. 7, 1916, ch. 458, § 20, 39 Stat. 747. June 13, 1922, ch. 219, 42 Stat. 650. July 28, 1945, ch. 328, § 1, 59 Stat. 503. Sept. 13, 1960, Pub. L. 86-767, § 205, 74 Stat. 908.

The last sentence of the Act of June 13, 1922, 42 Stat. 650, is omitted as obsolete.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8122(b), (d)	5 App.: 770	July 4, 1966, Pub. L. 89-488, § 9, 80 Stat. 254.

Amendments

1974—Subsec. (a). Pub. L. 93-416, § 14(1), substituted provisions requiring filing of claims for compensation within three years after death or disability, and setting forth conditions for waiver of filing within required time periods, for provisions requiring claim for death to be made within one year after death and for disability to be made within 60 days after injury and authorizing extension of time for good cause.

Subsec. (c). Pub. L. 93-416, § 14(2) substituted provisions relating to timeliness of claim for death when claim for injury was timely filed and death was based on same injury, for provisions relating to waiver of compliance with requirements for giving notice of injury and filing claim for compensation.

Subsec. (d). Pub. L. 93-416, § 14(3), substituted "(a) and (b)" for "(a)-(c)", and added cl. (3).

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-416 effective Sept. 7, 1974, and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 23(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Personnel Not Affected by 1967 Increase

Increases authorized under amendment of this section by section 1(57) of Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

Section Referred to in Other Sections

This section is referred to in sections 8118, 8119, 8121 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8123. Physical examinations

(a) An employee shall submit to examination by a medical officer of the United States, or by a physician designated or approved by the Secretary of Labor, after the injury and as frequently and at the times and places as may be reasonably required. The employee may have a physician designated and paid by him present to participate in the examination. If there is disagreement between the physician making the examination for the United States and the physician of the employee, the Secretary shall appoint a third physician who shall make an examination.

(b) An employee is entitled to be paid expenses incident to an examination required by the Secretary which in the opinion of the Secretary are necessary and reasonable, including transportation and loss of wages incurred in order to be examined. The expenses, when authorized or approved by the Secretary, are paid from the Employees' Compensation Fund.

(c) The Secretary shall fix the fees for examinations held under this section by physicians not employed by or under contract to the United States to furnish medical services to employees. The fees, when authorized or approved by the Secretary, are paid from the Employees' Compensation Fund.

(d) If an employee refuses to submit to or obstructs an examination, his right to compensation under this subchapter is suspended until the refusal or obstruction stops. Compensation is not payable while a refusal or obstruction continues, and the period of the refusal or obstruction is deducted from the period for which compensation is payable to the employee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 544.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 771	Sept. 7, 1916, ch. 458, § 21, 39 Stat. 747. June 26, 1926, ch. 695, § 2, 44 Stat. 772.
....	5 U.S.C. 772	Sept. 7, 1916, ch. 458, § 22, 39 Stat. 747.
....	5 U.S.C. 773(a)	Sept. 7, 1916, ch. 458, § 23, 39 Stat. 747. June 26, 1926, ch. 695, § 3, 44 Stat. 772. Oct. 14, 1949, ch. 691, § 208 "Sec. 23(a)", 63 Stat. 865.

In subsections (a) and (c), the words "duly qualified" in former sections 771 and 772 are omitted as unnecessary in view of the definition of "physician" in section 8101.

In subsection (c) the words "fees for examinations" in former section 773(a) are substituted for "fees or examinations" since the word "or" was erroneously in the 1949 amendment. The words "any sum payable to the employee under section 771 of this title" in former section 773(a) are omitted as unnecessary because the same provision appeared in former section 771, which is carried into subsection (b).

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8146 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8124. Findings and award; hearings

(a) The Secretary of Labor shall determine and make a finding of facts and make an award for or against payment of compensation under this subchapter after—

(1) considering the claim presented by the beneficiary and the report furnished by the immediate superior; and

(2) completing such investigation as he considers necessary.

(b)(1) Before review under section 8128(a) of this title, a claimant for compensation not satisfied with a decision of the Secretary under subsection (a) of this section is entitled, on request made within 30 days after the date of the issuance of the decision, to a hearing on his claim before a representative of the Secretary. At the hearing, the claimant is entitled to present evidence in further support of his claim. Within 30 days after the hearing ends, the Secretary shall notify the claimant in writing of his further decision and any modifications of the award he may make and of the basis of his decision.

(2) In conducting the hearing, the representative of the Secretary is not bound by common law or statutory rules of evidence, by technical or formal rules of procedure, or by section 554 of this title except as provided by this subchapter, but may conduct the hearing in such manner as to best ascertain the rights of the claimant. For this purpose, he shall receive such relevant evidence as the claimant adduces and such other evidence as he determines necessary or useful in evaluating the claim.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 545; Pub. L. 90-83, § 1(58), Sept. 11, 1967, 81 Stat. 210.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 786	Sept. 7, 1916, ch. 458, § 36, 39 Stat. 749.

The last sentence of former section 786 is omitted as surplusage because it is covered by section 8147.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8124(b)	5 App.: 786(b)	July 4, 1966, Pub. L. 89-488, § 11(b), 80. Stat. 255.

In subsection (b)(1), the words "section 8128(a) of this title" are substituted for "section 37" to reflect the codification of section 37 in title 5, United States Code. The words "a claimant * * * is entitled * * * to a hearing" are substituted for "any claimant * * * shall * * * be afforded an opportunity for a hearing". The words "under subsection (a) of this section" are substituted for "under this section" for clarity. In the second sentence, the words "is entitled to present evidence" are substituted for "shall be afforded an opportunity to present evidence".

In subsection (b)(2), the words "section 554 of this title * * * this subchapter" are substituted for "section 5 of the Administrative Procedure Act * * * this Act" to reflect the codification of the cited section and act in title 5. In the second sentence, the words "shall, in addition, receive" are omitted as unnecessary.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment of this section by section 1(58) of Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8149 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8125. Misbehavior at proceedings

If an individual—

(1) disobeys or resists a lawful order or process in proceedings under this subchapter

before the Secretary of Labor or his representative; or

(2) misbehaves during a hearing or so near the place of hearing as to obstruct it;

the Secretary or his representative shall certify the facts to the district court having jurisdiction in the place where he is sitting. The court, in a summary manner, shall hear the evidence as to the acts complained of and if the evidence warrants, punish the individual in the same manner and to the same extent as for a contempt committed before the court, or commit the individual on the same conditions as if the forbidden act had occurred with reference to the process of or in the presence of the court.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 545.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 773(c)	Oct. 14, 1949, ch. 691, § 208 "Sec. 23(c)", 63 Stat. 865.

The words "the district court of the United States for the District of Columbia" are omitted as included in "district court". The words "under this subchapter" are added for clarity since this section which was formerly a subsection referred to the subsection preceding it which identified the proceedings.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8126. Subpenas; oaths; examination of witnesses

The Secretary of Labor, on any matter within his jurisdiction under this subchapter, may—

(1) issue subpenas for and compel the attendance of witnesses within a radius of 100 miles;

(2) administer oaths;

(3) examine witnesses; and

(4) require the production of books, papers, documents, and other evidence.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 545.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 780	Sept. 7, 1916, ch. 458, § 29, 39 Stat. 748. Oct. 14, 1949, ch. 691, § 205 (c) (2), 63 Stat. 864.

The words "under this subchapter" are added to preserve the original grant of power in the Act of Sept. 7, 1916.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8127. Representation; attorneys' fees

(a) A claimant may authorize an individual to represent him in any proceeding under this subchapter before the Secretary of Labor.

(b) A claim for legal or other services furnished in respect to a case, claim, or award for compensation under this subchapter is valid only if approved by the Secretary.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 545.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 773(b) (less last sentence).	Oct. 14, 1949, ch. 691, § 208 "Sec. 23(b) (less last sentence)", 63 Stat. 865.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8128. Review of award

(a) The Secretary of Labor may review an award for or against payment of compensation at any time on his own motion or on application. The Secretary, in accordance with the facts found on review, may—

(1) end, decrease, or increase the compensation previously awarded; or

(2) award compensation previously refused or discontinued.

(b) The action of the Secretary or his designee in allowing or denying a payment under this subchapter is—

(1) final and conclusive for all purposes and with respect to all questions of law and fact; and

(2) not subject to review by another official of the United States or by a court by mandamus or otherwise.

Credit shall be allowed in the accounts of a certifying or disbursing official for payment in accordance with that action.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 545.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 787	Sept. 7, 1916, ch. 458, § 37, 39 Stat. 749. June 5, 1924, ch. 261, § 1, 43 Stat. 389.
(b)	5 U.S.C. 793 (penultimate sentence of 5th par.).	July 28, 1945, ch. 328, § 4 (penultimate sentence), 59 Stat. 504.

In subsection (a), the words "If the original claim for compensation has been made within the time specified in section 770 of this title" are omitted as surplusage. The words "an award for or against payment of compensation" are coextensive with and, for clarity and consistency with section 8124, substituted for "the award". The second sentence of former section 787 is omitted as included in the penultimate sentence of former section 793, which is carried into subsection (b). The last sentence of former section 787 is omitted as executed.

In subsection (b), the word "official" is substituted for "officer" because of the definition of "officer" in section 2104 which excludes a member of a uniformed service.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8113, 8124, 8146 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8129. Recovery of overpayments

(a) When an overpayment has been made to an individual under this subchapter because of an error of fact or law, adjustment shall be made under regulations prescribed by the Secretary of Labor by decreasing later payments to which the individual is entitled. If the individual dies before the adjustment is completed, adjustment shall be made by decreasing later benefits payable under this subchapter with respect to the individual's death.

(b) Adjustment or recovery by the United States may not be made when incorrect payment has been made to an individual who is without fault and when adjustment or recovery would defeat the purpose of this subchapter or would be against equity and good conscience.

(c) A certifying or disbursing official is not liable for an amount certified or paid by him when—

(1) adjustment or recovery of the amount is waived under subsection (b) of this section; or

(2) adjustment under subsection (a) of this section is not completed before the death of all individuals against whose benefits deductions are authorized.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 788	Sept. 7, 1916, ch. 458, § 38, 39 Stat. 749.
		Oct. 14, 1949, ch. 691, § 206, 63 Stat. 864.

In subsection (a), the words "Subject to the provisions of sections 786 and 787 of this title" and "if any" are omitted as surplusage.

In subsection (c), the word "official" is substituted for "officer" as the definition of "officer" in section 2104 excludes a member of a uniformed service.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8106 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8130. Assignment of claim

An assignment of a claim for compensation under this subchapter is void. Compensation and claims for compensation are exempt from claims of creditors.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 775	Sept. 7, 1916, ch. 458, § 25, 39 Stat. 747.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8131. Subrogation of the United States

(a) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability on a person other than the United States to pay damages, the Secretary of Labor may require the beneficiary to—

(1) assign to the United States any right of action he may have to enforce the liability or any right he may have to share in money or other property received in satisfaction of that liability; or

(2) prosecute the action in his own name.

An employee required to appear as a party or witness in the prosecution of such an action is in an active duty status while so engaged.

(b) A beneficiary who refuses to assign or prosecute an action in his own name when required by the Secretary is not entitled to compensation under this subchapter.

(c) The Secretary may prosecute or compromise a cause of action assigned to the United States. When the Secretary realizes on the cause of action, he shall deduct therefrom and place to the credit of the Employees' Compensation Fund the amount of compensation already paid to the beneficiary and the expense of realization or collection. Any surplus shall be paid to the beneficiary and credited on future payments of compensation payable for the same injury. However, the beneficiary is entitled to not less than one-fifth of the net amount of a settlement or recovery remaining after the expenses thereof have been deducted.

(d) If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability in the Panama Canal Company to pay damages under the law of a State, a territory or possession of the United States, the District of Columbia, or a foreign country, compensation is not payable until the individual entitled to compensation—

(1) releases to the Panama Canal Company any right of action he may have to enforce the liability of the Panama Canal Company; or

(2) assigns to the United States any right he may have to share in money or other property received in satisfaction of the liability of the Panama Canal Company.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 546; Pub. L. 90-83, § 1(60), Sept. 11, 1967, 81 Stat. 211.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(c)	5 U.S.C. 776	Sept. 7, 1916, ch. 458, § 26, 39 Stat. 747. Sept. 13, 1960, Pub. L. 86-767, § 207, 74 Stat. 908.
(d)	5 U.S.C. 791	Sept. 7, 1916, ch. 458, § 41, 39 Stat. 750.

In subsection (d), the first 45 words of section 41 of the Act of Sept. 7, 1916, are omitted as executed. The words "Panama Canal Company" are substituted for "Panama Railroad Company" on authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a) (2), 64 Stat. 1038.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan. No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8131(c)	5 App.: 776 (proviso).	July 4, 1966, Pub. L. 89-488, § 10(a), 80 Stat. 255.

Personnel Not Affected by 1967 Increase

Increases authorized under amendment of this section by Pub. L. 90-83, not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

Cross References

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of Title 42, The Public Health and Welfare.

Section Referred to in Other Sections

This section is referred to in section 8147 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8132. Adjustment after recovery from a third person

If an injury or death for which compensation is payable under this subchapter is caused under circumstances creating a legal liability in a person other than the United States to pay damages, and a beneficiary entitled to compensation from the United States for that injury or death receives money or other property in satisfaction of that liability as the result of suit or settlement by him or in his behalf, the beneficiary, after deducting therefrom the costs of suit and a reasonable attorney's fee, shall refund to the United States the amount of compensation paid by the United States and credit any surplus on future payments of compensation payable to him for the same injury. No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or his designee the proceeds of such suit or settlement without first satisfying or assuring satisfaction of the interest of the United States. The amount refunded to the United States shall be credited to the Employees' Compensation Fund. If compensation has not been paid to the beneficiary, he shall credit the money or property on compensation payable to him by the United States for the same injury. However, the beneficiary is entitled to retain, as a minimum, at least one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted; and in addition to this minimum and at the time of distribution, an amount equivalent to a reasonable attorney's fee proportionate to the refund to the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 547; Pub. L. 90-83, § 1(61), Sept. 11, 1967, 81 Stat. 211; Pub. L. 93-416, § 15, Sept. 7, 1974, 88 Stat. 1147.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 777	Sept. 7, 1916, ch. 458, § 27, 39 Stat. 747.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8132	5 App.: 777(b) (proviso).	July 4, 1966, Pub. L. 89-488, § 10(b), 80 Stat. 255.

The words "However, * * * is entitled to retain * * * plus" are substituted for "*Provided*, That * * * shall have the right to retain * * * and, in addition, to retain".

Amendments

1974—Pub. L. 93-416 made minor changes in phraseology and added provision prohibiting a court, etc., from distributing proceeds of suit or settlement without satisfying or assuring satisfaction of the interests of the United States.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-416 effective Sept. 7, 1974 and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Personnel Not Affected by 1967 Increase

Increases authorized under amendment of this section by Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

Cross References

Third party tort liability to United States for hospital and medical care, see section 2651 et seq. of Title 42, The Public Health and Welfare.

Section Referred to in Other Sections

This section is referred to in section 8147 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8133. Compensation in case of death

(a) If death results from an injury sustained in the performance of duty, the United States shall pay a monthly compensation equal to a percentage of the monthly pay of the deceased employee in accordance with the following schedule:

(1) To the widow or widower, if there is no child, 50 percent.

(2) To the widow or widower, if there is a child, 45 percent and in addition 15 percent for each child not to exceed a total of 75 percent for the widow or widower and children.

(3) To the children, if there is no widow or widower, 40 percent for one child and 15 percent additional for each additional child not to exceed a total of 75 percent, divided among the children share and share alike.

(4) To the parents, if there is no widow, widower, or child, as follows—

(A) 25 percent if one parent was wholly dependent on the employee at the time of death and the other was not dependent to any extent;

(B) 20 percent to each if both were wholly dependent; or

(C) a proportionate amount in the discretion of the Secretary of Labor if one or both were partly dependent.

If there is a widow, widower, or child, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, and children, will not exceed a total of 75 percent.

(5) To the brothers, sisters, grandparents, and grandchildren, if there is no widow, widower, child, or dependent parent, as follows—

(A) 20 percent if one was wholly dependent on the employee at the time of death;

(B) 30 percent if more than one was wholly dependent, divided among the dependents share and share alike; or

(C) 10 percent if no one is wholly dependent but one or more is partly dependent, divided among the dependents share and share alike.

If there is a widow, widower, child, or dependent parent, so much of the percentages are payable as, when added to the total percentages payable to the widow, widower, children, and dependent parents, will not exceed a total of 75 percent.

(b) The compensation payable under subsection (a) of this section is paid from the time of death until—

(1) a widow, or widower dies or remarries before reaching age 60;

(2) a child, a brother, a sister, or a grandchild dies, marries, or becomes 18 years of age, or if over age 18 and incapable of self-support becomes capable of self-support; or

(3) a parent or grandparent dies, marries, or ceases to be dependent.

Notwithstanding paragraph (2) of this subsection, compensation payable to or for a child, a brother or sister, or grandchild that would otherwise end because the child, brother or sister, or grandchild has reached 18 years of age shall continue if he is a student as defined by section 8101 of this title at the time he reaches 18 years of age for so long as he continues to be such a student or until he marries. A widow or widower who has entitlements to benefits under this title derived from more than one husband or wife shall elect one entitlement to be utilized.

(c) On the cessation of compensation under this section to or on account of an individual, the compensation of the remaining individuals entitled to compensation for the unexpired part of the period during which their compensation is payable, is that which they would have received if they had been the only individuals entitled to compensation at the time of the death of the employee.

(d) When there are two or more classes of individuals entitled to compensation under this section and the apportionment of compensation under this section would result in injustice, the Secretary may modify the apportionment to meet the requirements of the case.

(e) In computing compensation under this section, the monthly pay is deemed not less than the minimum rate of basic pay for GS-2. However, the total monthly compensation may not exceed—

(1) the monthly pay computed under section 8114 of this title, except for increases authorized by section 8146a of this title; or

(2) 75 percent of the monthly pay of the maximum rate of basic pay for GS-15.

(f) Notwithstanding any funeral and burial expenses paid under section 8134, there shall be paid a sum of $200 to the personal representative of a deceased employee within the meaning of section 8101(1) of this title for reimbursement of the costs of termination of the decedent's status as an employee of the United States.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 547; Pub. L. 90-83, § 1(62), Sept. 11, 1967, 81 Stat. 211; Pub. L. 93-416, §§ 16(a), 17, 18, Sept. 7, 1974, 88 Stat. 1147, 1149.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 760 (less last 23 words of 1st sentence in (B); and less (H) and (L)).	Sept. 7, 1916, ch. 458, § 10 (less last 15 words of 1st sentence in (B); and less (H) and (L)), 39 Stat. 744. Feb. 12, 1927, ch. 110, § 3, 44 Stat. 1087. July 28, 1945, ch. 328, §§ 2 (less last 24 words), 3, 59 Stat. 503. Oct. 14, 1949, ch. 691, § 106 (less last 23 words of 1st sentence in "(B)" of (c); and less (e)), 63 Stat. 859. Sept. 13, 1960, Pub. L. 86-767, § 102, 74 Stat. 906.

In subsection (a), the words "an injury sustained in the performance of duty" are substituted for "the injury" to clearly identify the type of injury to which the section refers.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan. No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8133(b)	5 App.: 760(G) (last sentence).	July 4, 1966, Pub. L. 89-488, § 7(a), 80 Stat. 253.
8133(e)	5 App.: 760(K)	July 4, 1966, Pub. L. 89-488, § 3(c), 80 Stat. 252.

In subsection (b), the words "Notwithstanding paragraph (3) of this subsection" are substituted for "Notwithstanding any other provision of this section" for clarity. The words "section 8101 of this title" are substituted for "section 10(M) of this Act" to reflect the codification of that section in title 5.

In subsection (e), the words "is deemed" are substituted for "shall be considered to be". The words "minimum rate of basic pay for GS-2" and "maximum rate of basic pay for GS-15" are substituted for "lowest rate of basic compensation provided for grade 2 by the General Schedule of the Classification Act of 1949" and "highest rate of basic compensation provided for grade 15 of the General Schedule of the Classification Act of 1949," respectively, for consistency of style and to reflect the codification of the Classification Act of 1949 in title 5. The words "under section 8114 of this title" are substituted for "as provided in section 12" to reflect the codification of that section in title 5.

AMENDMENTS

1974—Subsec. (a)(1). Pub. L. 93-416, § 16(a), substituted "50" for "45".

Subsec. (a)(2). Pub. L. 93-416, § 16(a), substituted "45" for "40".

Subsec. (a)(3). Pub. L. 93-416, § 16(a), substituted "40" for "35".

Subsec. (b). Pub. L. 93-416, § 16(a), added "before reaching age 60" after "remarries" in par. (1), deleted par. (2) referring to widower who dies, remarries or becomes capable of self-support, redesignated pars. (3) and (4) as (2) and (3), respectively, changed the reference in closing paragraph from paragraph (3) of this subsection to paragraph (2) of this subsection, and added provision for election by widower or widow of benefits derived from more than one husband or wife.

Subsec. (e)(1). Pub. L. 93-416, § 17, added "except for increases authorized by section 8146a of this title"; preceding "or".

Subsec. (f). Pub. L. 93-416, § 18, added subsec. (f).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by sections 16 (a) and (b) and 17 of Pub. L. 93-416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974 but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Amendment by section 18 of Pub. L. 93-416 effective on Sept. 7, 1974, and applicable to any injury or death occurring on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment of this section by section 1(62) (B) of Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

CROSS REFERENCES

Minimum limits on monthly pay on which death compensation is computed under this section, noncitizen employees sustaining injury outside the continental United States, see section 8138 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8109, 8119, 8135, 8138, 8141 of this title; title 14 section 760; title 18 section 1921; title 22 section 2679a.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8134. Funeral expenses; transportation of body

(a) If death results from an injury sustained in the performance of duty, the United States shall pay, to the personal representative of the deceased or otherwise, funeral and burial expenses not to exceed $800, in the discretion of the Secretary of Labor.

(b) The body of an employee whose home is in the United States, in the discretion of the Secretary, may be embalmed and transported in a hermetically sealed casket to his home or last place of residence at the expense of the Employees' Compensation Fund if—

(1) the employee dies from—

(A) the injury while away from his home or official station or outside the United States; or

(B) from other causes while away from his home or official station for the purpose of receiving medical or other services, appliances, supplies, or examination under this subchapter; and

(2) the relatives of the employee request the return of his body.

If the relatives do not request the return of the body of the employee, the Secretary may provide for its disposition and incur and pay from the Employees' Compensation Fund the necessary and reasonable transportation, funeral, and burial expenses.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 548.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 761	Sept. 7, 1916, ch. 458, § 11, 39 Stat. 745. Feb. 12, 1927, ch. 110, § 4, 44 Stat. 1087. July 28, 1945, ch. 328, § 2 (last 24 words), 59 Stat. 503. Oct. 14, 1949, ch. 691, § 107, 63 Stat. 860. Sept. 13, 1960, Pub. L. 86-767, § 103, 74 Stat. 906.

In subsection (a), the words "an injury sustained in the performance of duty" are substituted for "the injury" to clearly identify the type of injury to which the section refers.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan. No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8109, 8133, 8146 of this title; title 38 section 907.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8135. Lump-sum payment

(a) The liability of the United States for compensation to a beneficiary in the case of death

or of permanent total or permanent partial disability may be discharged by a lump-sum payment equal to the present value of all future payments of compensation computed at 4 percent true discount compounded annually if—

(1) the monthly payment to the beneficiary is less than $50 a month;

(2) the beneficiary is or is about to become a nonresident of the United States; or

(3) the Secretary of Labor determines that it is for the best interest of the beneficiary.

The probability of the death of the beneficiary before the expiration of the period during which he is entitled to compensation shall be determined according to the most current United States Life Tables, as developed by the United States Department of Health, Education, and Welfare, which shall be updated from time to time, but the lump-sum payment to a widow or widower of the deceased employee may not exceed 60 months' compensation. The probability of the happening of any other contingency affecting the amount or duration of compensation shall be disregarded.

(b) On remarriage before reaching age 60 a widow or widower entitled to compensation under section 8133 of this title, shall be paid a lump sum equal to twenty-four times the monthly compensation payment (excluding compensation on account of another individual) to which he was entitled immediately before the remarriage.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 548; Pub. L. 90-83, § 1(63), Sept. 11, 1967, 81 Stat. 211; Pub. L. 93-416, §§ 16(b), 19, 20, Sept. 7, 1974, 88 Stat. 1149.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 764	Sept. 7, 1916, ch. 458, § 14, 39 Stat. 746.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8135(b)	5 App.: 764(b)	July 4, 1966, Pub. L. 89-488, § 8, 80 Stat. 254.

The word "widower" is substituted for "dependent widower" to conform to the definition in 5 U.S.C. 8101(11). The words "section 8133 of title 5" are substituted for "section 10" to reflect the codification of that section in title 5, United States Code.

AMENDMENTS

1974—Subsec. (a). Pub. L. 93-416, § 20, substituted provisions relating to use of the most current United States Life Tables, for provisions relating to determination by the American Experience Tables of Mortality.

Subsec. (a)(1). Pub. L. 93-416, § 19, substituted "$50" for "$5".

Subsec. (b). Pub. L. 93-416, § 16(b), added "before reaching age 60" following "On remarriage".

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment of this section by section (1)(63) of Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

CROSS REFERENCES

Entitlement to civil service retirement annuity, effect of lump sum payment for compensation under this section, see section 8337 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8137, 8337 of this title; title 22 section 1081.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8136. Initial payments outside the United States

If an employee is injured outside the continental United States, the Secretary of Labor may arrange and provide for initial payment of compensation and initial furnishing of other benefits under this subchapter by an employee or agent of the United States designated by the Secretary for that purpose in the locality in which the employee was employed or the injury incurred.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 549.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
	5 U.S.C. 793 (2d sentence of 4th par.)	July 29, 1942, ch. 533 (2d sentence), 56 Stat. 725.

The word "continental" is added on authority of the last sentence of the fifth paragraph of former section 793, which is carried into section 8137.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8137. Compensation for noncitizens and nonresidents

(a) When the Secretary of Labor finds that the amount of compensation payable to an employee who is neither a citizen nor resident of the United States or Canada, or payable to a dependent of such an employee, is substantially disproportionate to compensation for disability or death payable in similar cases under local statute, regulations, custom, or otherwise at the place outside the continental United States or Canada where the employee is working at the time of injury, he may provide for payment of compensation on a basis reasonably in accord with prevailing local payments in similar cases by—

(1) the adoption or adaption of the substantive features, by a schedule or otherwise, of local workmen's compensation provisions or other local statute, regulation, or custom applicable in cases of personal injury or death; or

(2) establishing special schedules of compensation for injury, death, and loss of use of members and functions of the body for specific classes of employees, areas, and places.

Irrespective of the basis adopted, the Secretary may at any time—

(A) modify or limit the maximum monthly and total aggregate payments for injury, death, and medical or other benefits;

(B) modify or limit the percentages of the wage of the employee payable as compensation for the injury or death; and

(C) modify, limit, or redesignate the class or classes of beneficiaries entitled to death benefits, including the designation of persons, representatives, or groups entitled to payment under local statute or custom whether or not included in the classes of beneficiaries otherwise specified by this subchapter.

(b) In a case under this section, the Secretary or his designee may—

(1) make a lump-sum award in the manner prescribed by section 8135 of this title when he or his designee considers it to be for the best interest of the United States; and

(2) compromise and pay a claim for benefits, including a claim in which there is a dispute as to jurisdiction or other fact or a question of law.

Compensation paid under this subsection is instead of all other compensation from the United States for the same injury or death, and a payment made under this subsection is deemed compensation under this subchapter and is satisfaction of all liability of the United States in respect to the particular injury or death.

(c) The Secretary may delegate to an employee or agency of the United States, with such limitations and right of review as he considers advisable, authority to process, adjudicate, commute by lump-sum award, compromise, and pay a claim or class of claims for compensation, and to provide other benefits, locally, under this section, in accordance with such regulations and instructions as the Secretary considers necessary. For this purpose, the Secretary may provide or transfer funds, including reimbursement of amounts paid under this subchapter.

(d) The Secretary may waive the application of this subchapter in whole or in part and for such period or periods as he may fix if he finds that—

(1) conditions prevent the establishment of facilities for processing and adjudicating claims under this section; or

(2) claimants under this section are alien enemies.

(e) The Secretary may apply this section retrospectively with adjustment of compensation and benefits as he considers necessary and proper.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 549.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 793 (5th par., less penultimate sentence).	July 28, 1945, ch. 328, § 4 (less penultimate sentence), 59 Stat. 503.

The last sentence of former section 793 is omitted as it consists of a definition which is fully spelled out when the words "United States" are used as a geographical reference.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan. No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8138. Minimum limit modification for noncitizens and aliens

(a) Except as provided by subsection (b) of this section, the minimum limit on monthly compensation for disability under section 8112 of this title and the minimum limit on monthly pay on which death compensation is computed under section 8133 of this title do not apply in the case of a noncitizen employee, or a class or classes of noncitizen employees, who sustain injury outside the continental United States. The Secretary of Labor may establish a minimum monthly pay on which death compensation is computed in the case of a class or classes of such noncitizen employees.

(b) The President may remove or modify the minimum limit on monthly compensation for disability under section 8112 of this title and the minimum limit on monthly pay on which death compensation is computed under section 8133 of this title in the case of an alien employee, or a class or classes of alien employees, of the Canal Zone Government or the Panama Canal Company.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 550.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 793 (4th par., less 2d sentence).	July 29, 1942, ch. 533 (less 2d sentence), 56 Stat. 725. Sept. 13, 1960, Pub. L. 86-767, § 210, 74 Stat. 910.
(b)	5 U.S.C. 793 (2d sentence of 2d par.).	Sept. 7, 1916, ch. 458, § 42 (2d sentence of 2d par.), 39 Stat. 750. Apr. 6, 1938, ch. 79 "Sec. 42 (2d sentence of 2d par.)", 52 Stat. 201.

In subsection (a), the words "in his discretion" are omitted as unnecessary in view of the permissive nature of the authority. The word "continental" is added on authority of the last sentence of the fifth paragraph of former section 793, which is carried into section 8137.

In subsection (b), the words "Canal Zone Government" and "Panama Canal Company" are substituted for "Panama Canal" and "Panama Railroad Company", respectively, on authority of the Act of Sept. 26, 1950, ch. 1049, § 2(a), 64 Stat. 1038.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8112 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8139. Employees of the District of Columbia

Compensation awarded to an employee of the government of the District of Columbia shall be paid in the manner provided by statute for the payment of the general expenses of the government of the District of Columbia.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 550.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 794 (less 1st sentence).	July 11, 1919, ch. 7, § 11 (less 1st sentence), 41 Stat. 104.

The words "Compensation awarded" are substituted for "Such compensation as the Secretary may award".

The last sentence of former section 794, requiring that the Commissioners of the District of Columbia submit to Congress through the Bureau of the Budget estimates of appropriations, is omitted as obsolete. The Budget and Accounting Act, 1921, as amended, 31 U.S.C. 2 et seq., prescribes the procedures for presenting all budget estimates for the government of the District of Columbia and provides that the budget submission to Congress be made by the President.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

PROCESSING OF CLAIMS FILED BY DISTRICT OF COLUMBIA EMPLOYEES

See Pub. L. 93-198, title II, § 204(e), Dec. 24, 1973, 87 Stat. 783, set out as a note under section 8101 of this title.

§ 8140. Members of the Reserve Officers' Training Corps

(a) Subject to the provisions of this section, this subchapter applies to a member of, or applicant for membership in, the Reserve Officers' Training Corps of the Army, Navy, or Air Force who suffers disability or death from an injury incurred in line of duty—

(1) while engaged in a flight or in flight instruction under chapter 103 of title 10; or

(2) while performing authorized travel to or from, or while attending, field training or a practice cruise under chapter 103 of title 10.

(b) For the purpose of this section, an injury is incurred in line of duty only if it is the proximate result of the performance of military training by the member concerned, or of his travel to or from that training, during the periods specified by subsection (a)(2) of this section. A member or applicant for membership who contracts a disease or illness which is the proximate result of the performance of training during the periods specified by subsection (a)(2) of this section is considered for the purpose of this section to have been injured in line of duty during that period. Subject to review by the Secretary of Labor, the Secretary of the military department concerned, under regulations prescribed by him, shall determine whether or not an injury, disease, or illness was incurred or contracted in line of duty and was the proximate result of the performance of military training by the member concerned or of his travel to or from that military training.

(c) In computing the compensation payable under this section, the monthly pay received by the injured or deceased individual, in cash and kind, is deemed $150.

(d) The Secretary of the military department concerned shall cooperate fully with the Department of Labor in the prompt investigation and prosecution of a case involving the legal liability of a third party other than the United States.

(e) An individual may not receive disability benefits under this section while on active duty with the armed forces, but these benefits may be reinstated when the individual is released from that active duty.

(f) Expenses incurred by a military department in providing hospitalization, medical and surgical care, necessary transportation incident to that hospitalization or medical and surgical care, or in connection with a funeral and burial on behalf of an individual covered by subsection (a) of this section shall be reimbursed by the Secretary of Labor from the Employees' Compensation Fund in accordance with this subchapter. However, reimbursement may not be made for hospitalization or medical or surgical care provided an individual while attending field training or a practice cruise under chapter 103 of title 10.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 550.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 802	Aug. 1, 1956, ch. 830, § 4, 70 Stat. 805. Oct. 13, 1964, Pub. L. 88-647, § 302, 78 Stat. 1073.

In subsection (a), the words "Subject to the provisions of this section" are added for clarity.

In subsection (c), the last sentence of former section 802(b) is omitted as unnecessary.

In subsection (d), the words "Nothing in this section shall be construed to hinder the prompt action authorized by sections 776 and 777 of this title in any case involving the legal liability of a third party other than the United States" are omitted as unnecessary as there is nothing in the section that reasonably could be so construed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8141. Civil Air Patrol volunteers

(a) Subject to the provisions of this section, this subchapter applies to a volunteer civilian member of the Civil Air Patrol, except a Civil Air Patrol Cadet.

(b) In administering this subchapter for a member of the Civil Air Patrol covered by this section—

(1) the monthly pay of a member is deemed $300 for the purpose of computing compensation for disability or death;

(2) the percentages applicable to payments under section 8133 of this title are—

(A) 45 percent for section 8133(a)(2) of this title, if the member dies fully or currently insured under subchapter II of chapter 7 of title 42, with no additional payments for a child or children while the widow or widower remains eligible for payments under section 8133(a)(2) of this title;

(B) 20 percent for section 8133(a)(3) of this title for one child and 10 percent additional for each additional child, but not to exceed a total of 75 percent, if the member died fully or currently insured under subchapter II of chapter 7 of title 42; and

(C) 25 percent for section 8133(a)(4) of this title, if one parent was wholly dependent on the deceased member at the time of his death and the other was not dependent to any extent; 16 percent to each, if both were wholly dependent; and if one was or both were partly dependent, a proportionate amount in the discretion of the Secretary of Labor;

(3) a payment may not be made under section 8133(a)(5) of this title;

(4) "performance of duty" means only active service, and travel to and from that service, rendered in performance or support of operational missions of the Civil Air Patrol under direction of the Department of the Air Force and under written authorization by competent authority covering a specific assignment and prescribing a time limit for the assignment; and

(5) the Secretary of Labor or his designee shall inform the Secretary of Health, Education, and Welfare when a claim is filed and eligibility for compensation is established under section 8133(a)(2) or (3) of this title, and the Secretary of Health, Education, and Welfare shall certify to the Secretary of Labor as to whether or not the member concerned was fully or currently insured under subchapter II of chapter 7 of title 42 at the time of his death.

(c) The Secretary of Labor or his designee may inform the Secretary of the Air Force or his designee when a claim is filed. The Secretary of the Air Force, on request of the Secretary of Labor, shall advise him of the facts concerning the injury and whether or not the member was rendering service, or engaged in travel to or from service, in performance or support of an operational mission of the Civil Air Patrol at the time of injury. This subsection does not dispense with the report of the immediate superior of the member required by section 8120 of this title, or other reports agreed on under that section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 551.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 803 (less (d)).	Aug. 3, 1956, ch. 926, § 1 "Sec. 3 (less (d))", 70 Stat. 980.

Subsection (d) of former section 803, providing for retroactive applicability, is omitted as executed (see Table II).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Subchapter II of chapter 7 of title 42, referred to in text, is section 401 et seq. of Title 42, The Public Health and Welfare.

CROSS REFERENCES

Veteran status or military status not conferred by this section, see section 8150 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8150 of this title.

§ 8142. Peace Corps volunteers

(a) For the purpose of this section, "volunteer" means—

(1) a volunteer enrolled in the Peace Corps under section 2504 of title 22;

(2) a volunteer leader enrolled in the Peace Corps under section 2505 of title 22; and

(3) an applicant for enrollment as a volunteer or volunteer leader during a period of training under section 2507(a) of title 22 before enrollment.

(b) Subject to the provisions of this section, this subchapter applies to a volunteer, except that entitlement to disability compensation payments does not commence until the day after the date of termination of his service as a volunteer.

(c) For the purpose of this subchapter—

(1) a volunteer is deemed receiving monthly pay at the minimum rate for GS-7;

(2) a volunteer leader referred to by section 2505 of title 22, or a volunteer with one or more minor children as defined in section 2504 of title 22, is deemed receiving monthly pay at the minimum rate for GS-11;

(3) an injury suffered by a volunteer when he is outside the several States and the District of Columbia is deemed proximately caused by his employment, unless the injury or disease is—

(A) caused by willful misconduct of the volunteer;

(B) caused by the volunteer's intention to bring about the injury or death of himself or of another; or

(C) proximately caused by the intoxication of the injured volunteer; and

(4) the period of service of an individual as a volunteer includes—

(A) any period of training under section 2507(a) of title 22 before enrollment as a volunteer; and

(B) the period between enrollment as a volunteer and the termination of service as a volunteer by the President or by death or resignation.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 552; Pub. L. 90-83, § 1(64), Sept. 11, 1967, 81 Stat. 212; Pub. L. 93-416, § 23(b), Sept. 7, 1974, 88 Stat. 1150.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	22 U.S.C. 2504(d).	Sept. 22, 1961, Pub. L. 87-293, § 5(d), 75 Stat. 613.

Subsection (a) is based on sections 2504(a), 2505, and 2507(a) of title 22.

In subsection (b), the words "Subject to the provisions of this section" are added for clarity and to conform to the style of sections 8140 and 8141. The words "of the United States Government" are omitted as unnecessary in view of the definition of "employee" in section 8101(1).

In subsection (c), the words "outside the several States, territories and possessions of the United States, and the District of Columbia" are substituted for "abroad" on authority of section 2522(a), (b) of title 22. References to "the general schedule established by the Classification Act of 1949, as amended" are omitted as unnecessary.

Subsection (c)(4) is added on authority of section 2522(e) of title 22.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section 8142 of title 5 was derived from section 2504(d) of title 22. This amendment reflects changes, effected by the act of Sept. 13, 1966, Public Law 89-572, section 4, 80 Stat. 765, in the definitions applicable to section 2504(d) by virtue of section 2522(a), (b) of title 22.

Amendments

1974—Subsec. (c)(2). Pub. L. 93-416 added provision relating to a volunteer with one or more minor children.

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-416 effective on Sept. 7, 1974, and applicable to any injury or death occurring on or after such effective date, see section 23(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Cross References

Transportation of baggage and household goods, appropriations for payment or reimbursement of volunteers, see section 5732 of this title.

Section Referred to in Other Sections

This section is referred to in section 5732 of this title.

§ 8143. Job Corps enrollees; volunteers in service to America

(a) Subject to the provisions of this subsection, this subchapter applies to an enrollee in the Job Corps, except that compensation for disability does not begin to accrue until the day after the date on which the injured enrollee is terminated. In administering this subchapter for an enrollee covered by this subsection—

(1) the monthly pay of an enrollee is deemed that received at the minimum rate for GS-2;

(2) section 8113(a) of this title applies to an enrollee; and

(3) "performance of duty" does not include an act of an enrollee while absent from his assigned post of duty, except while participating in an activity (including an activity while on pass or during travel to or from the post of duty) authorized by or under the direction and supervision of the Job Corps.

(b) This subchapter applies to a volunteer in service to America who receives either a living allowance or a stipend under part A of subchapter VIII of chapter 34 of title 42, with respect to that service and training, to the same extent as enrollees of the Job Corps under subsection (a) of this section. However, for the purpose of the computation described in subsection (a)(1) of this section, the monthly pay of a volunteer is deemed that received at the minimum rate for GS-7.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 553; Pub. L. 90-83, § 1(65), Sept. 11, 1967, 81 Stat. 212; Pub. L. 90-623, § 1(19), Oct. 22, 1968, 82 Stat. 1313; Pub. L. 93-416, § 8(b), Sept. 7, 1974, 88 Stat. 1145.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	42 U.S.C. 2716(c).	Aug. 20, 1964, Pub. L. 88-452, § 106(c), 78 Stat. 510.
(b)	42 U.S.C. 2943(d) (words after 6th comma, as applicable to 42 U.S.C. 2716(c)).	Aug. 20, 1964, Pub. L. 88-452, § 603(d) (words after 6th comma, as applicable to § 106(c)), 78 Stat. 531.

In subsection (a)(1), reference to "the Classification Act of 1949 (5 U.S.C. 1071 et seq.)" is omitted as unnecessary. In subsection (a)(3)(B), the word "his" is substituted for "his or her" on authority of 1 U.S.C. 1.

In subsection (b), the words "in service to America" are inserted after "volunteer" for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8143(a) (1).	42: 2716(c) (2) (B).	Nov. 8, 1966, Pub. L. 89-794, § 109, 80 Stat. 1453.
8143(a) (3).	42: 2716(c) (2) (A).	Oct. 9, 1965, Pub. L. 89-253, § 6, 79 Stat. 973.
8143(b)	42: 2991c(b) (as applicable to 42: 2716(c)).	Nov. 8, 1966, Pub. L. 89-794, § 801 "Sec. 804(b) (as applicable to § 106 (c) of the Economic Opportunity Act of 1964)", 80 Stat. 1474.

In subsection (a)(3), the words "in the Federal Employees' Compensation Act" are omitted as unnecessary since that act is codified in that subchapter of title 5, United States Code, in which section 8143 is a part. The word "his" is substituted for "his or hers" on authority of 1 U.S.C. 1. The words "Job Corps" are substituted for "Corps" on authority of 42 U.S.C. 2712.

In subsection (b), the words "in service to America" are inserted after "volunteer" in two places for clarity. The words "subsection (a)(2) of this section" are substituted for "paragraph (2)(B) of section 106(c)" to reflect the codification of that paragraph in title 5. The words "at the minimum rate for GS-7" are substituted for "under the entrance salary for GS-7 of the General Schedule for section 5332, title 5, United States Code" to conform to the style of title 5.

References in Text

Part A of subchapter VIII of chapter 34 of title 42, referred to in subsec. (b), comprised sections 2992 to

2992b of title 42, and was repealed by Pub. L. 93-113, title VI, § 603, Oct. 1, 1973, 87 Stat. 417. Former provisions of sections 2992 to 2992b of title 42 are now covered by sections 4952 to 4955 and 5042(13)(A) of title 42.

AMENDMENTS

1974—Pub. L. 93-416 struck out ",(b)" following "section 8113(a)".

1968—Pub. L. 90-623 reenacted section in its entirety making minor changes in phraseology.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-416 applicable to case where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 926.

§ 8143a. Members of the National Teacher Corps

Subject to the provisions of this section, this subchapter applies to a member of the National Teacher Corps. In administering this subchapter for a member covered by this section—

(1) "performance of duty" does not include an act of a member while—

(A) on authorized leave; or

(B) absent from his assigned post of duty, except while participating in an activity authorized by or under the direction or supervision of the Commissioner of Education; and

(2) In computing compensation for disability or death, the monthly pay of a member is deemed his actual pay or that received at the minimum rate for GS-6, whichever is greater.

(Added Pub. L. 90-83, § 1(66)(A), Sept. 11, 1967, 81 Stat. 212.)

HISTORICAL AND REVISION NOTES

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8143a	20: 1105(b)	Nov. 8, 1965, Pub. L. 89-329, § 515(b), 79 Stat. 1257.

The words "a member of the National Teacher Corps" are substituted for "such members" on authority of 20 U.S.C. 1102, 1105(a). In paragraph (1)(B), the words "Commissioner of Education" are substituted for "Commissioner" on authority of 20 U.S.C. 1141(f). In paragraph (2), the words "at the minimum rate for GS-6" are substituted for "under the entrance salary for grade 6," and the reference to the General Schedule of the Classification Act of 1949 is omitted as unnecessary.

§ 8144. Student-employees

A student-employee as defined by section 5351 of this title who suffers disability or death as a result of personal injury arising out of and in the course of training, or incurred in the performance of duties in connection with that training, is considered for the purpose of this subchapter an employee who incurred the injury in the performance of duty.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 553.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 1053	Aug. 4, 1947, ch. 452, § 4, 61 Stat. 727.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8145. Administration

The Secretary of Labor shall administer, and decide all questions arising under, this subchapter. He may—

(1) appoint employees to administer this subchapter; and

(2) delegate to any employee of the Department of Labor any of the powers conferred on him by this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 553.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 778	Sept. 7, 1916, ch. 458, § 28, 39 Stat. 748. Oct. 14, 1949, ch. 691, § 205 (a), (c) (1), 63 Stat. 864.
....	[Uncodified]	1946 Reorg. Plan No. 2, § 3 (less 2d sentence), eff. July 16, 1946, 60 Stat. 1095.
....	[Uncodified]	1950 Reorg. Plan No. 19, § 1, eff. May 24, 1950, 64 Stat. 1271.
....	5 U.S.C. 781	Sept. 7, 1916, ch. 458, § 30, 39 Stat. 748.
....	5 U.S.C. 783 (last 9 words).	Sept. 7, 1916, ch. 458, § 32 (last 9 words), 39 Stat. 749.

The last 20 words of former section 781 are omitted as unnecessary in view of the definition of "competitive service" in section 2102 and the provisions of subchapter I of chapter 33 concerning examination and certification for and appointment in the competitive service.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

PROCESSING OF CLAIMS FILED BY DISTRICT OF COLUMBIA EMPLOYEES

See Pub. L. 93-198, title II, § 204(e), Dec. 24, 1973, 87 Stat. 783, set out as a note under section 8101 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8146. Administration for the Canal Zone and The Alaska Railroad

(a) The President, from time to time, may transfer the administration of this subchapter—

(1) so far as employees of the Canal Zone Government and of the Panama Canal Company are concerned to the Governor of the Canal Zone; and

(2) so far as employees of The Alaska Railroad are concerned to the general manager of The Alaska Railroad.

(b) When administration is transferred under subsection (a) of this section, the expenses incident to physical examinations which are payable under section 8123 of this title shall be paid from appropriations for the Canal Zone Government or for The Alaska Railroad or from funds of the Panama Canal Company, as the case may be, instead of from the Employees' Compensation Fund. The President may authorize the Governor of the Canal Zone and the general manager of The Alaska Railroad to pay the compensation provided by this subchapter, including medical, surgical, and hospital services and supplies under section 8103 of this title and the transportation and burial expenses under sections 8103 and 8134 of this title, from appropriations for the Canal Zone Government and for The Alaska Railroad, and these appropriations shall be reimbursed for the payments by transfer of funds from the Employees' Compensation Fund.

(c) The President may authorize the Governor of the Canal Zone to waive, at his discretion, the making of the claim required by section 8121 of this title in the case of compensation to an employee of the Canal Zone Government or of the Panama Canal Company for temporary disability, either total or partial.

(d) When administration is transferred under subsection (a) of this section to the general manager of The Alaska Railroad, the Secretary of Labor is not divested of jurisdiction and a claimant is entitled to appeal from the decision of the general manager of The Alaska Railroad to the Secretary of Labor. The Secretary on receipt of an appeal shall, or on his own motion may, review the decision of the general manager of The Alaska Railroad, and in accordance with the facts found on review may proceed under section 8128 of this title. The Secretary shall provide the form and manner of taking an appeal.

(e) The same right of appeal exists with respect to claims filed by employees of the Canal Zone Government and of the Panama Canal Company or their dependents in case of death, as is provided with respect to the claims of other employees to whom this subchapter applies, under section 8149 of this title. The Employees' Compensation Appeals Board referred to by section 8149 of this title has jurisdiction, under regulations prescribed by the Secretary, over appeals relating to claims of the employees or their dependents.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 553.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 793 (1st 3 pars., less 2d sentence of 2d par.).	Sept. 7, 1916, ch. 458, § 42 (less 2d sentence of 2d par.), 39 Stat. 750. Apr. 6, 1938, ch. 79 "Sec. 42 (less 2d sentence of 2d par.)", 52 Stat. 200. Aug. 30, 1964, Pub. L. 88-508, 78 Stat. 666.

In subsection (a), the words "in which cases the words 'Secretary' and 'his' wherever they appear in sections 751-756, 757-781, 783-791, and 793 of this title shall, so far as necessary to give effect to such transfer, be read, 'Governor of the Canal Zone' or 'the general manager of The Alaska Railroad', as the case may be, and 'his' " are omitted as surplusage.

In subsection (b), the words "the Employees' Compensation Fund" are substituted for "appropriation for the work of the Secretary" in view of former section 771, which is carried into section 8123, which provides that all such expenses shall be paid from the Fund.

In subsections (b) and (c), the words "Canal Zone Government", "Panama Canal Company", and "Governor of the Canal Zone" are substituted for "Panama Canal", "Panama Railroad Company", and "Governor of the Panama Canal", respectively, on authority of the Act of Sept. 26, 1950, ch. 1049, § 2, 64 Stat. 1038.

In subsection (e), the words "of other employees to whom this subchapter applies" are substituted for "of other employees of the Federal Government" for clarity and in view of the provisions of section 8149. The words "Employees' Compensation Appeals Board" are substituted for "Appeals Board" to reflect the full title of the Board

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8149 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8146a. Cost-of-living adjustment of compensation

(a) Each month the Secretary of Labor shall determine the percent change in the price index. Effective the first day of the month which begins after the price index change equals a rise of at least 3 percent for 3 consecutive months over the price index for the latest base month, compensation payable on account of disability or death which occurred more than 1 year before that first day shall be increased by the percent rise in the price index (calculated on the highest level of the price index during the 3 consecutive months) adjusted to the nearest one-tenth of 1 percent.

(b) The regular periodic compensation payments after adjustment under this section shall be fixed at the nearest dollar. However, the regular periodic compensation after adjustment shall reflect an increase of at least $1.

(c) This section shall be applicable to persons excluded by section 15 of the Federal Employees' Compensation Act Amendments of 1966 (Public Law 89-488) under the following statutes: Act of February 15, 1934 (48 Stat. 351); Act of June 26, 1936 (49 Stat. 2035); Act of April 8, 1935 (49 Stat. 115); Act of July 25, 1942 (56 Stat. 710); Public Law 84-955 (August 3, 1956); Public Law 77-784 (December 2, 1942); Public Law 84-879 (August 1, 1956); Public Law 80-896 (July 3, 1948); Act of September 8, 1959 (73 Stat. 469). Benefit payments to these persons shall initially be increased by the total percentage of the increases in the price index from the base month of July 1966, to the next most recent base month following the effective date of this subsection.

(Added Pub. L. 90-83, § 1(67)(A), Sept. 11, 1967, 81 Stat. 212, and amended Pub. L. 93-416, §§ 21, 24, Sept. 7, 1974, 88 Stat. 1149, 1150.)

Historical and Revision Notes

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8146a(a)	5App.: 793a(a).	July 4, 1966, Pub. L. 89-488, § 14 "Sec. 43(a), (b)", 80 Stat. 256.
8146a(b)	5 App.: 793a(b).	

In subsection (a), the words "After the month during which this section becomes effective," following "Each month," are omitted as executed and unnecessary. The words "Secretary of labor" are substituted for "Secretary" on authority of section 40(i) of the Federal Employees' Compensation Act. In the second sentence, the words "latest base month" are substituted for "most recent base month."

So much of section 14 of Public Law 89-488 as redesignated section 43 of the Federal Employees' Compensation Act as section 44 is omitted as unnecessary in view of the codification of that act in title 5, United States Code.

References in Text

"Persons excluded by section 15 of the Federal Employees' Compensation Act Amendments of 1966", referred to in subsec. (c), means persons excluded by section 15 of Pub. L. 89-488, July 4, 1966, 80 Stat. 256, which was set out as a note under section 756 of former Title 5 prior to the 1966 revision of Title 5 by Pub. L. 89-554. Such section 15 of the Federal Employees' Compensation Act Amendments of 1966 directed that benefit increases mandated by the Federal Employees' Compensation Act Amendments of 1966 not apply to employees unless such employees fell within the definition of "employees" in section 40(b) (1) or (2) of the Federal Employees' Compensation Act [former section 790(b)(1) or (2) of Title 5]. As a result section 15 of the Federal Employees' Compensation Act Amendments of 1966 served to prohibit increases to persons to whom the benefits of the Federal Employees' Compensation Act had been extended over the years by Acts described in subsec. (c) as follows:

Act of February 15, 1934 (48 Stat. 351) which extended coverage to employees of the Federal Civil Works Administration and was classified to section 796 of former Title 5.

Act of June 26, 1936 (49 Stat. 2035) probably means Act of June 29, 1936 which extended coverage to certain W.W. I veterans and was set out as a note under former section 134 of Title 38.

Act of April 8, 1935 (49 Stat. 115) which extended coverage to certain emergency relief personnel, was classified to former sections 721 and 728 of Title 15.

Act of July 25, 1942 (56 Stat. 710) which extended coverage to certain personnel of the War Relocation Authority, was set out as a note under section 796 of former Title 5.

Public Law 84-955 (Aug. 3, 1956) which extended coverage to certain Civil Air Patrol personnel was set out as a note under section 760 of former Title 5.

Public Law 77-784 (December 2, 1942), which extended coverage to war risk hazards of certain employees of federal contractors is classified to section 1701 et seq. of Title 42.

Public Law 84-879 (August 1, 1956), which extended coverage to certain members of the Reserve Officers Training Corps of the Army, Navy, and Air Force, was classified to section 802 of former Title 5.

Public Law 80-896 (July 3, 1948) extended coverage to certain persons entitled to war claims and was classified to section 2001 et seq. of Title 50 App.

Act of September 8, 1959 (73 Stat. 469) which transferred from the Department of Commerce to the Department of Labor certain functions in respect to insurance benefits and disability payments to seamen for W.W. II service-connected injuries, death, or disability, was not classified to the Code.

Amendments

1974—Subsec. (a). Pub. L. 93-416, § 21, substituted "Effective the first day of the month" for "Effective the first day of the third month".

Subsec. (b). Pub. L. 93-416, § 21, substituted "regular periodic compensation payments" for "monthly compensation".

Subsec. (c). Pub. L. 93-416, § 24, added subsec. (c).

Effective Date of 1974 Amendment

Amendment by sections 21 and 24 of Pub. L. 93-416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974 but only to the period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Personnel Not Affected by Cost-of-Living Adjustment

Increases authorized by this section not applicable to employees and individuals not within the definition of "employee" in section 8101(1)(A), (B), or (D) of this title, members of the Metropolitan Police or the Fire Department of the District of Columbia who are pensioned or pensionable under sections 521 to 535 of title 4, District of Columbia Code, or members of a uniformed service, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

Section Referred to in Other Sections

This section is referred to in sections 8101, 8133 of this title.

§ 8147. Employees' Compensation Fund

(a) There is in the Treasury of the United States the Employees' Compensation Fund which consists of sums that Congress, from time to time, may appropriate for or transfer to it, and amounts that otherwise accrue to it under this subchapter or other statute. The Fund is available without time limit for the payment of compensation and other benefits and expenses, except administrative expenses, authorized by this subchapter or any extension or application thereof, except as otherwise provided by this subchapter or other statute. The Secretary of Labor shall submit annually to the Office of Management and Budget estimates of appropriations necessary for the maintenance of the Fund. For the purpose of this subsection, "administrative expenses" does not include expenses for legal services performed by or for the Secretary under sections 8131 and 8132 of this title.

(b) Before August 15 of each year, the Secretary shall furnish to each agency and instrumentality of the United States having an employee who is or may be entitled to compensation benefits under this subchapter or any extension or application thereof a statement showing the total cost of benefits and other payments made from the Employees' Compensation Fund during the preceding July 1 through June 30 expense period on account of the injury or death of employees or individuals under the jurisdiction of the agency or instrumentality. Each agency and instrumentality shall include in its annual budget estimates for the fiscal year beginning in the next calendar year a request for an appropriation in an amount equal to the costs. Sums appropriated pursuant to the request shall be deposited in the Treasury to the credit of the Fund within 30 days after they are available. An agency or instrumentality not dependent on an annual appropriation shall make the deposit required by this subsection from funds under its control during the first fifteen days of October follow-

ing the furnishing of the statement. If an agency or instrumentality (or part or function thereof) is transferred to another agency or instrumentality, the cost of compensation benefits and other expenses paid from the Fund on account of the injury or death of employees of the transferred agency or instrumentality (or part or function) shall be included in costs of the receiving agency or instrumentality.

(c) In addition to the contributions for the maintenance of the Employees' Compensation Fund required by this section, the United States Postal Service, or a mixed ownership corporation as defined by section 856 of title 31, or any other corporation or agency or instrumentality (or activity thereof) which is required by statute to submit an annual budget pursuant to or as provided by sections 841-869 of title 31, shall pay an additional amount for its fair share of the cost of administration of this subchapter as determined by the Secretary. With respect to these corporations, agencies, and instrumentalities, the charges billed by the Secretary under this section shall include an additional amount for these costs, which shall be paid into the Treasury as miscellaneous receipts from the sources authorized and in the manner otherwise provided by this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 554; Pub. L. 90-83, § 1(68), Sept. 11, 1967, 81 Stat. 213; Pub. L. 93-416, §§ 25, 26, Sept. 7, 1974, 88 Stat. 1150; Pub. L. 94-273, § 42, Apr. 21, 1976, 90 Stat. 381.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 785	Sept. 7, 1916, ch. 458, § 35, 39 Stat. 749. Sept. 12, 1950, ch. 946, § 301(92), 64 Stat. 844. Sept. 13, 1960, Pub. L. 86-767, § 209, 74 Stat. 909.

In subsection (b), the words "each agency and instrumentality of the United States" are substituted for "each executive department and each agency or instrumentality of the United States or other establishment". The words "(hereinafter called 'agency')" are omitted as unnecessary because "agency or instrumentality" is substituted for "agency" in the remainder of this subsection and in subsection (c). The words "occurring after December 1, 1960" are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8147(a)	5 App.: 785(d)	July 4, 1966, Pub. L. 89-488, § 10(c), 80 Stat. 255.

The word "performed" is substituted for "rendered" to conform to the style of title 5. The words "sections 8131 and 8132 of this title" are substituted for "sections 26 and 27" to reflect the codification of those sections in title 5.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-273 added "during the first fifteen days of October following the furnishing of the statement" following "its control" and substituted "July 1 through June 30 expense period" for "fiscal year" and "the fiscal year beginning in the next calendar year" for "the next fiscal year".

1974—Subsec. (a). Pub. L. 93-416, § 26 substituted "Office of Management and Budget" for "Bureau of the Budget".

Subsec. (c). Pub. L. 93-416, § 25, added reference to the United States Postal Service.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by section 25 of Pub. L. 93-416 applicable to cases where the injury or death occurred prior to Sept. 7, 1974 but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

Amendment by section 26 of Pub. L. 93-416 effective Sept. 7, 1974, and applicable to any death or injury occurring on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

DEPOSIT INTO FUND BETWEEN JULY 1, AND JULY 15, 1976, OF SPECIFIED PART OF AUGUST 15, 1975, STATEMENT

Pub. L. 94-274, title I, § 120, Apr. 21, 1976, 90 Stat. 389, provided that:" For the purposes of section 8147(b) of title 5, United States Code, each agency and instrumentality of the United States dependent upon an annual appropriation and having an employee who is or may be entitled to compensation benefits under this subchapter or any extension or application thereof shall deposit in the Treasury to the credit of the Employees' Compensation Fund, no later than July 15, 1976, but no earlier than July 1, 1976, 25 per centum of the amount stated in the August 15, 1975, statement."

PERSONNEL NOT AFFECTED BY 1967 INCREASE

Increases authorized under amendment of this section by section 1(71) of Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

[§ 8148. Repealed. Pub. L. 90-83, § 1(69), Sept. 11, 1967, 81 Stat. 213.]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 555, provided for a report to Congress by the Secretary of Labor at the beginning of each regular session covering the work for the preceding fiscal year under this subchapter.

§ 8149. Regulations

The Secretary of Labor may prescribe rules and regulations necessary for the administration and enforcement of this subchapter including rules and regulations for the conduct of hearings under section 8124 of this title. The rules and regulations shall provide for an Employee's Compensation Appeals Board of three individuals designated or appointed by the Secretary with authority to hear and, subject to applicable law and the rules and regulations of the Secretary, make final decisions on appeals taken from determinations and awards with respect to claims of employees. In adjudicating claims under section 8146 of this title, the Secretary may determine the nature and extent of the proof and evidence required to establish the right to benefits under this subchapter without regard to the date of injury or death for which claim is made.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 555; Pub. L. 90-83, § 1(71), Sept. 11, 1967, 81 Stat. 213.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 783 (less last 9 words).	Sept. 7, 1916, ch. 458, § 32 (less last 9 words), 39 Stat. 749.
....	[Uncodified]	1946 Reorg. Plan No. 2, § 3 (2d sentence), eff. July 16, 1946, 60 Stat. 1095.
....	[Uncodified]	1950 Reorg. Plan No. 19, § 2, eff. May 24, 1950, 64 Stat. 1272.

The words "administration and" are added for clarity.

Administration of this subchapter was transferred to the Secretary of Labor by section 1 of 1950 Reorg. Plan No. 19, 64 Stat. 1271 (see section 8145).

The first sentence of section 2 of 1950 Reorg. Plan No. 19 is omitted as executed. The word "employees" is coextensive with and substituted for "employees of the Federal Government or of the District of Columbia" in view of the definition of "employee" in section 8101.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8149	5 App.: 783	July 4, 1966, Pub. L. 89-488, §§ 11(a), 12, 80 Stat. 255.

In the first sentence, the words "section 8124 of this title" are substituted for "section 36" to reflect the codification of that section in title 5, United States Code.

In the second sentence, the word "adjudicating" is substituted for "in the adjudication of". The words "section 8146 of this title" and "this subchapter" are substituted for "section 42 of this Act" and "this Act", respectively, to reflect the codification of the Federal Employees' Compensation Act in title 5, United States Code.

Personnel Not Affected by 1967 Increase

Increases authorized under amendment of this section by section 1(71) of Pub. L. 90-83 not applicable to specified personnel, see section 7 of Pub. L. 90-83, set out as a note under section 8103 of this title.

Section Referred to in Other Sections

This section is referred to in section 8146 of this title.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8150. Effect on other statutes

(a) This subchapter does not affect the maritime rights and remedies of a master or member of the crew of a vessel.

(b) Section 8141 of this title and section 9441 of title 10 do not confer military or veteran status on any individual.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 555.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 791-4 (b)	Oct. 14, 1949, ch. 691, § 305, (b), 63 Stat. 868.
(b)	5 U.S.C. 803a	Aug. 3, 1956, ch. 926, § 1 "Sec. 4", 70 Stat. 981.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in D.C. Code

This section is referred to in sections 31-1603, 31-1623 of the District of Columbia Code.

§ 8151. Civil service retention rights

(a) In the event the individual resumes employment with the Federal Government, the entire time during which the employee was receiving compensation under this chapter shall be credited to the employee for the purposes of within-grade step increases, retention purposes, and other rights and benefits based upon length of service.

(b) Under regulations issued by the Civil Service Commission—

(1) the department or agency which was the last employer shall immediately and unconditionally accord the employee, if the injury or disability has been overcome within one year after the date of commencement of compensation or from the time compensable disability recurs if the recurrence begins after the injured employee resumes regular full-time employment with the United States, the right to resume his former or an equivalent position, as well as all other attendant rights which the employee would have had, or acquired, in his former position had he not been injured or disabled, including the rights to tenure, promotion, and safeguards in reductions-in-force procedures, and

(2) the department or agency which was the last employer shall, if the injury or disability is overcome within a period of more than one year after the date of commencement of compensation, make all reasonable efforts to place, and accord priority to placing, the employee in his former or equivalent position within such department or agency, or within any other department or agency.

(Added Pub. L. 93-416, § 22, Sept. 7, 1974, 88 Stat. 1149.)

Effective Date

Section applicable to cases where the injury or death occurred prior to Sept. 7, 1974, but only to a period beginning on or after Sept. 7, 1974, see section 28(a) of Pub. L. 93-416, set out as a note under section 8101 of this title.

SUBCHAPTER II—EMPLOYEES OF NONAPPROPRIATED FUND INSTRUMENTALITIES

§ 8171. Compensation for work injuries; generally

(a) Chapter 18 of title 33 applies with respect to disability or death resulting from injury, as defined by section 902(2) of title 33, occurring to an employee of a nonappropriated fund instrumentality described by section 2105(c) of this title who is—

(1) a United States citizen or a permanent resident of the United States or a territory or possession of the United States employed outside the continental United States; or

(2) employed inside the continental United States.

However, that part of section 903(a) of title 33 which follows the first comma does not apply to such an employee.

(b) For the purpose of this subchapter, the term "employer" in section 902(4) of title 33 includes the nonappropriated fund instrumentalities described by section 2105(c) of this title.

(c) The Secretary of Labor may—

(1) extend compensation districts established under section 939(b) of title 33, or establish new districts to include the areas outside the continental United States; and

(2) assign to each district one or more deputy commissioners as the Secretary considers advisable.

(d) Judicial proceedings under sections 918 and 921 of title 33 with respect to an injury or death occurring outside the continental United States shall be instituted in the district court within the territorial jurisdiction of which is located the office of the deputy commissioner having jurisdiction with respect to the injury or death.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 555.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 150k-1(a)	June 19, 1952, ch. 444, § 2, 66 Stat. 139. July 18, 1958, Pub. L. 85-538, § 1 "Sec. 2(a)", 72 Stat. 397.

In subsection (a), the word "civilian" is omitted as unnecessary as the definition of "employee" in section 2105 includes only civilians.

In subsection (d), the reference to "the United States District Court for the District of Columbia" is omitted as included in the words "district court".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8173 of this title.

§ 8172. Employees not citizens or residents of the United States

In case of disability or death, resulting from injury, as defined by section 902(2) of title 33, occurring to an employee of a nonappropriated fund instrumentality described by section 2105(c) of this title who is—

(1) not a citizen or permanent resident of the United States or a territory or possession of the United States; and

(2) employed outside the continental United States;

compensation shall be provided in accordance with regulations prescribed by the Secretary of the military department concerned and approved by the Secretary of Defense or regulations prescribed by the Secretary of the Treasury, as the case may be.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 556.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 150k-1(b).	July 18, 1958, Pub. L. 85-538, § 1 "Sec. 2(b)", 72 Stat. 397.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8173 of this title.

§ 8173. Liability under this subchapter exclusive

The liability of the United States or of a nonappropriated fund instrumentality described by section 2105(c) of this title, with respect to the disability or death resulting from injury, as defined by section 902(2) of title 33, of an employee referred to by sections 8171 and 8172 of this title, shall be determined as provided by this subchapter. This liability is exclusive and instead of all other liability of the United States or the instrumentality to the employee, his legal representative, spouse, dependents, next of kin, and any other person otherwise entitled to recover damages from the United States or the instrumentality because of the disability or death in a direct judicial proceeding, in a civil action, or in admiralty, or by an administrative or judicial proceeding under a workmen's compensation statute or under a Federal tort liability statute.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 556.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 150k-1(c).	July 18, 1958, Pub. L. 85-538, § 1 "Sec. 2(c)", 72 Stat. 397.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER III—LAW ENFORCEMENT OFFICERS NOT EMPLOYED BY THE UNITED STATES

§ 8191. Determination of eligibility

The benefits of this subchapter are available as provided in this subchapter to eligible law enforcement officers (referred to in this subchapter as "eligible officers") and their survivors. For the purposes of this subchapter, an eligible officer is any person who is determined by the Secretary of Labor in his discretion to have been on any given occasion—

(1) a law enforcement officer and to have been engaged on that occasion in the apprehension or attempted apprehension of any person—

(A) for the commission of a crime against the United States, or

(B) who at that time was sought by a law enforcement authority of the United States for the commission of a crime against the United States, or

(C) who at that time was sought as a material witness in a criminal proceeding instituted by the United States; or

(2) a law enforcement officer and to have been engaged on that occasion in protecting or guarding a person held for the commission of a crime against the United States or as a material witness in connection with such a crime; or

(3) a law enforcement officer and to have been engaged on that occasion in the lawful prevention of, or lawful attempt to prevent, the commission of a crime against the United States;

and to have been on that occasion not an employee as defined in section 8101(1), and to have sustained on that occasion a personal injury for which the United States would be required under subchapter I of this chapter to pay compensation if he had been on that occasion such an employee engaged in the performance of his duty. No person otherwise eligible to receive a benefit under this subchapter because of the disability or death of an eligible officer shall be barred from the receipt of such benefit because the person apprehended or attempted to be apprehended by such officer was then sought for the commission of a crime against a sovereignty other than the United States.

(Added Pub. L. 90-291, § 1(a), Apr. 19, 1968, 82 Stat. 98, and amended Pub. L. 90-623, § 1(20), Oct. 22, 1968, 82 Stat. 1313.)

AMENDMENTS

1968—Pub. L. 90-623 substituted "For the purposes of this subchapter" for "For the purposes of this Act".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

EFFECTIVE DATE

Section 2 of Pub. L. 90-291 provided that: "The amendments made by section 1 of this Act [adding this section and sections 8192 and 8193 of this title] are effective only with respect to personal injuries sustained on or after the date of enactment of this Act [Apr. 19, 1968]."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8193 of this title; title 42 section 3796.

§ 8192. Benefits

(a) Benefits in event of injury.

The Secretary of Labor shall furnish to any eligible officer the benefits to which he would have been entitled under subchapter I of this chapter if, on the occasion giving rise to his eligibility, he had been an employee as defined in section 8101(1) engaged in the performance of his duty, reduced or adjusted as the Secretary of Labor in his discretion may deem appropriate to reflect comparable benefits, if any, received by the officer (or which he would have been entitled to receive but for this subchapter) by virtue of his actual employment on that occasion. When an enforcement officer has contributed to a disability compensation fund, the reduction of Federal benefits provided for in this subsection is to be limited to the amount of the State or local government benefits which bears the same proportion to the full amount of such benefits as the cost or contribution paid by the State or local government bears to the cost of disability coverage for the individual officer.

(b) Benefits in event of death.

The Secretary of Labor shall pay to any survivor of an eligible officer the difference, as determined by the Secretary in his discretion, between the benefits to which that survivor would be entitled if the officer had been an employee as defined in section 8101(1) engaged in the performance of his duty on the occasion giving rise to his eligibility, and the comparable benefits, if any, received by the survivor (or which that survivor would have been entitled to receive but for this subchapter) by virtue of the officer's actual employment on that occasion. When an enforcement officer has contributed to a survivor's benefit fund, the reduction of Federal benefits provided for in this subsection is to be limited to the amount of the State or local government benefits which bears the same proportion to the full amount of such benefits as the cost or contribution paid by the State or local government bears to the cost of survivor's benefits coverage for the individual officer.

(Added Pub. L. 90-291, § 1(a), Apr. 19, 1968, 82 Stat. 99.)

EFFECTIVE DATE

Section effective only with respect to personal injuries sustained on or after Apr. 19, 1968, see section 2 of Pub. L. 90-291, set out as a note under section 8191 of this title.

§ 8193. Administration

(a) Definitions and rules of construction

For the purpose of this subchapter—

(1) The term "Attorney General" includes any person to whom the Attorney General has delegated any function pursuant to subsection (b) of this section.

(2) The term "Secretary of Labor" includes any person to whom the Secretary of Labor has delegated any function pursuant to subsection (b) of this section.

(b) Delegation

(1) The Attorney General may delegate to any division, officer, or employee of the Department of Justice any function conferred upon the Attorney General by this subchapter.

(2) The Secretary of Labor may delegate to any bureau, officer, or employee of the Department of Labor any function conferred upon the Secretary of Labor by this subchapter.

(c) Applications

An application for any benefit under this subchapter may be made only—

(1) to the Secretary of Labor

(2) by

(A) any eligible officer or survivor of an eligible officer,

(B) any guardian, personal representative, or other person legally authorized to act on behalf of an eligible officer, his estate, or any of his survivors, or

(C) any association of law enforcement officers which is acting on behalf of an eligible officer or any of his survivors;

(3) within five years after the injury or death; and

(4) in such form as the Secretary of Labor may require.

(d) Consultation with Attorney General and other agencies

The Secretary of Labor may refer any application received by him pursuant to this subchapter to the Attorney General for his assistance, comments and advice as to any determination required to be made pursuant to paragraph (1), (2), or (3) of section 8191. To insure that all Federal assistance under this subchapter is carried out in a coordinated manner, the Secretary of Labor is authorized to request any Federal department or agency to supply any statistics, data, or any other materials he deems necessary to carry out his functions under this subchapter. Each such department or agency is authorized to cooperate with the Secretary of Labor and, to the extent permitted by law, to furnish such materials to him.

(e) Cooperation with State agencies

The Secretary of Labor shall cooperate fully with the appropriate State and local officials, and shall take all other practicable measures, to assure that the benefits of this subchapter are made available to eligible officers and their survivors with a minimum of delay and difficulty.

(f) Appropriations

There are authorized to be appropriated such sums as may be necessary to carry out this subchapter.

(Added Pub. L. 90-291, § 1(a), Apr. 19, 1968, 82 Stat. 99, and amended Pub. L. 94-183, § 2(31), Dec. 31, 1975, 89 Stat. 1058.)

AMENDMENTS

1975—Subsec. (f). Pub. L. 94-183 redesignated subsec. (e), relating to appropriations, as subsec. (f).

EFFECTIVE DATE

Section effective only with respect to personal injuries sustained on or after Apr. 19, 1968, see section 2 of Pub. L. 90-291, set out as a note under section 8191 of this title.

CHAPTER 83—RETIREMENT

SUBCHAPTER I—GENERAL PROVISIONS

Sec.
8301. Uniform retirement date.

SUBCHAPTER II—FORFEITURE OF ANNUITIES AND RETIRED PAY

8311. Definitions.
8312. Conviction of certain offenses.
8313. Absence from the United States to avoid prosecution.
8314. Refusal to testify.
8315. Falsifying employment applications.
8316. Refund of contributions and deposits.
8317. Repayment of annuity or retired pay properly paid; waiver.
8318. Restoration of annuity or retired pay.
8319. Removal of members of the uniformed services from rolls; restoration; reappointment.
8320. Offense or violation committed in compliance with orders.
8321. Liability of accountable employees.
Sec.
8322. Effect on other statutes.

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

8331. Definitions.
8332. Creditable service.
8333. Eligibility for annuity.
8334. Deductions, contributions, and deposits.
8335. Mandatory separation.
8336. Immediate retirement.
8337. Disability retirement.
8338. Deferred retirement.
8339. Computation of annuity.
8340. Cost-of-living adjustment of annuities.
8341. Survivor annuities.
8342. Lump-sum benefits; designation of beneficiary; order of precedence.
8343. Additional annuities; voluntary contributions.
8344. Annuities and pay on reemployment.
8345. Payment of benefits; commencement, termination, and waiver of annuity.
8346. Exemption from legal process; recovery of payments.
8347. Administration; regulations.
8348. Civil Service Retirement and Disability Fund.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 25 section 450i; title 38 sections 4107, 4109, 4118; title 39 section 1005; title 42 section 2996d.

SUBCHAPTER I—GENERAL PROVISIONS

§ 8301. Uniform retirement date

(a) Except as otherwise specifically provided by this title or other statute, retirement authorized by statute is effective on the first day of the month following the month in which retirement would otherwise be effective.

(b) Notwithstanding subsection (a) of this section, the rate of active or retired pay or allowance is computed as of the date retirement would have occurred but for subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 557.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 47a	Apr. 23, 1930, ch. 209, § 1, 46 Stat. 253.

In subsection (a), the words "Except as otherwise specifically provided by this title or other statute" are added because of the statutes carried into subchapter III of chapter 83. The words "of Federal personnel of whatever class, civil, military, naval, judicial, legislative, or otherwise, and for whatever cause retired" are omitted as unnecessary. The words "and said first day of the month for retirements made after July 1, 1930, shall be for all purposes in lieu of such date for retirement as was on April 23, 1930, authorized" are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 sections 564, 1164, 1221, 1263, 1305, 1331, 1404, 3883, 3884, 3885, 3886, 3913, 3916, 3921, 3922, 3923, 8883, 8884, 8885, 8886, 8913, 8916, 8921, 8922, 8923.

SUBCHAPTER II—FORFEITURE OF ANNUITIES AND RETIRED PAY

§ 8311. Definitions

For the purpose of this subchapter—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title:

(B) a Member of Congress as defined by section 2106 of this title and a Delegate to Congress;

(C) a member or former member of a uniformed service; and

(D) an individual employed by the government of the District of Columbia;

(2) "annuity" means a retirement benefit, including a disability insurance benefit and a dependent's or survivor's benefit under subchapter II of chapter 7 of title 42, and a monthly annuity under section 228b or 228e of title 45, payable by an agency of the Government of the United States or the government of the District of Columbia on the basis of service as a civilian employee and other service which is creditable to an employee toward the benefit under the statute, regulation, or agreement which provides the benefit, but does not include—

(A) a benefit provided under statutes administered by the Veterans' Administration;

(B) pay or compensation which may not be diminished under section 1 of Article III of the Constitution of the United States;

(C) that portion of a benefit payable under subchapter II of chapter 7 of title 42 which would be payable without taking into account, for any of the purposes of that subchapter, including determinations of periods of disability under section 416(i) of title 42, pay for services as an employee;

(D) monthly annuity awarded under section 228b or 228e of title 45 before September 26, 1961, whether or not computed under section 228c(e) of title 45;

(E) that portion of an annuity awarded under section 228b or 228e of title 45 after September 25, 1961, which would be payable without taking into account military service creditable under section 228c-1 of title 45;

(F) a retirement benefit, including a disability insurance benefit and a dependent's or survivor's benefit under subchapter II of chapter 7 of title 42, awarded before September 1, 1954, to an individual or his survivor or beneficiary, insofar as the individual, before September 1, 1954—

(i) was convicted of an offense named by subsection (b) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8314 or 8315(a)(1) of this title; or

(G) a retirement benefit, including a disability insurance benefit and a dependent's or survivor's benefit under subchapter II of chapter 7 of title 42, awarded before September 26, 1961, to an individual or his survivor or beneficiary, insofar as the individual, before September 26, 1961—

(i) was convicted of an offense named by subsection (c) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8315(a)(2) of this title; and

(3) "retired pay" means retired pay, retirement pay, retainer pay, or equivalent pay, payable under a statute to a member or former member of a uniformed service, and an annuity payable to an eligible beneficiary of the member or former member under chapter 73 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), but does not include—

(A) a benefit provided under statutes administered by the Veterans' Administration;

(B) retired pay, retirement pay, retainer pay, or equivalent pay, awarded before September 1, 1954, to an individual, insofar as the individual, before September 1, 1954—

(i) was convicted of an offense named by subsection (b) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8314 or 8315(a)(1) of this title;

(C) retired pay, retirement pay, retainer pay, or equivalent pay, awarded before September 26, 1961, to an individual, insofar as the individual, before September 26, 1961—

(i) was convicted of an offense named by subsection (c) of section 8312 of this title, to the extent provided by that subsection; or

(ii) violated section 8315(a)(2) of this title; or

(D) an annuity payable to an eligible beneficiary of an individual under chapter 73 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), if the annuity was awarded to the beneficiary, or if retired pay was awarded to the individual, before September 26, 1961, insofar as the individual, on the basis of whose service the annuity was awarded, before September 26, 1961—

(i) was convicted of an offense named by section 8312 of this title, to the extent provided by that section; or

(ii) violated section 8314 or 8315 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 557.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2281	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 10", 75 Stat. 646.

The words "and section 3282 of Title 18" are omitted as unnecessary.

In paragraph (1)(A), the words "an employee as defined by section 2105 of this title" are coextensive with and substituted for "an officer or employee in or under the legislative, executive, or judicial branch of the Government of the United States".

In paragraph (1)(B), the reference to "Resident Commissioner" is omitted as included in "Member of Congress" in view of the definition of "Member of Congress" in section 2106.

In paragraph (1)(C), the words "uniformed service" are coextensive with and substituted for "armed forces, the Coast and Geodetic Survey, or the Public Health Service" in view of the definition of "uniformed services" in section 2101.

In paragraph (3), the words "uniformed service" are coextensive with and substituted for "armed forces, the Coast and Geodetic Survey, and the Public Health

Service" in view of the definition of "uniformed services" in section 2101.

The definition of "armed forces" in former section 2281(4) is omitted as unnecessary in view of the definition of "armed forces" in section 2101.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

References in Text

Subchapter II of chapter 7 of title 42, referred to in par. (2), is section 401 et seq. of Title 42, The Public Health and Welfare.

Sections 228b, 228c(e), 228c-1, and 228e of title 45, referred to in par. (2), are references to sections 2, 3(e), 4, and 5 of the Railroad Retirement Act of 1937. That Act was amended in its entirety and completely revised by Pub. L. 93-445, Oct. 16, 1974, 88 Stat. 1305. The Act, as thus amended and revised, was redesignated the Railroad Retirement Act of 1974, and is classified to subchapter IV (section 231 et seq.) of chapter 9 of Title 45, Railroads.

Section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), referred to in text, is now covered by section 1438 of Title 10, Armed Forces.

Section Referred to in Other Sections

This section is referred to in sections 8312, 8313, 8314, 8315 of this title.

§ 8312. Conviction of certain offenses

(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311(2) and (3) of this title, if the individual—

(1) was convicted, before, on, or after September 1, 1954, of an offense named by subsection (b) of this section, to the extent provided by that subsection; or

(2) was convicted, before, on, or after September 26, 1961, of an offense named by subsection (c) of this section, to the extent provided by that subsection.

The prohibition on payment of annuity or retired pay applies—

(A) with respect to the offenses named by subsection (b) of this section, to the period after the date of the conviction or after September 1, 1954, whichever is later; and

(B) with respect to the offenses named by subsection (c) of this section, to the period after the date of conviction or after September 26, 1961, whichever is later.

(b) The following are the offenses to which subsection (a) of this section applies if the individual was convicted before, on, or after September 1, 1954:

(1) An offense within the purview of—

(A) section 792 (harboring or concealing persons), 793 (gathering, transmitting, or losing defense information), 794 (gathering or delivering defense information to aid foreign government), or 798 (disclosure of classified information), of chapter 37 (relating to espionage and censorship) of title 18;

(B) chapter 105 (relating to sabotage) of title 18;

(C) section 2381 (treason), 2382 (misprision of treason), 2383 (rebellion or insurrection), 2384 (seditious conspiracy), 2385 (advocating overthrow of government), 2387 (activities affecting armed forces generally), 2388 (activities affecting armed forces during war), 2389 (recruiting for service against United States), or 2390 (enlistment to serve against United States), of chapter 115 (relating to treason, sedition, and subversive activities) of title 18;

(D) section 10(b)(2), (3), or (4) of the Atomic Energy Act of 1946 (60 Stat. 766, 767), as in effect August 30, 1954;

(E) section 16(a) or (b) of the Atomic Energy Act of 1946 (60 Stat. 773), as in effect before August 30, 1954, insofar as the offense is committed with intent to injure the United States or with intent to secure an advantage to a foreign nation; or

(F) an earlier statute on which a statute named by subparagraph (A), (B), or (C) of this paragraph (1) is based.

(2) An offense within the purview of—

(A) article 104 (aiding the enemy) or article 106 (spies) of the Uniform Code of Military Justice (chapter 47 of title 10) or an earlier article on which article 104 or article 106, as the case may be, is based; or

(B) a current article of the Uniform Code of Military Justice (or an earlier article on which the current article is based) not named by subparagraph (A) of this paragraph (2) on the basis of charges and specifications describing a violation of a statute named by paragraph (1), (3), or (4) of this subsection, if the executed sentence includes death, dishonorable discharge, or dismissal from the service, or if the defendant dies before execution of that sentence as finally approved.

(3) Perjury committed under the statutes of the United States or the District of Columbia—

(A) in falsely denying the commission of an act which constitutes an offense within the purview of—

(i) a statute named by paragraph (1) of this subsection; or

(ii) an article or statute named by paragraph (2) of this subsection insofar as the offense is within the purview of an article or statute named by paragraph (1) or (2)(A) of this subsection;

(B) in falsely testifying before a Federal grand jury, court of the United States, or court-martial with respect to his service as an employee in connection with a matter involving or relating to an interference with or endangerment of, or involving or relating to a plan or attempt to interfere with or endanger, the national security or defense of the United States; or

(C) in falsely testifying before a congressional committee in connection with a matter under inquiry before the congressional committee involving or relating to an interference with or endangerment of, or involving or relating to a plan or attempt to interfere with or endanger, the national security or defense of the United States.

(4) Subornation of perjury committed in connection with the false denial or false testimony of another individual as specified by paragraph (3) of this subsection.

(c) The following are the offenses to which subsection (a) of this section applies if the individual was convicted before, on, or after September 26, 1961:

(1) An offense within the purview of—

(A) section 2272 (violation of specific sections) or 2273 (violation of sections generally of chapter 23 of title 42) of title 42 insofar as the offense is committed with intent to injure the United States or with intent to secure an advantage to a foreign nation;

(B) section 2274 (communication of restricted data), 2275 (receipt of restricted data), or 2276 (tampering with restricted data) of title 42; or

(C) section 783 (conspiracy and communication or receipt of classified information) of title 50.

(2) An offense within the purview of a current article of the Uniform Code of Military Justice (chapter 47 of title 10) or an earlier article on which the current article is based, as the case may be, on the basis of charges and specifications describing a violation of a statute named by paragraph (1), (3), or (4) of this subsection, if the executed sentence includes death, dishonorable discharge, or dismissal from the service, or if the defendant dies before execution of that sentence as finally approved.

(3) Perjury committed under the statutes of the United States or the District of Columbia in falsely denying the commission of an act which constitutes an offense within the purview of a statute named by paragraph (1) of this subsection.

(4) Subornation of perjury committed in connection with the false denial of another individual as specified by paragraph (3) of this subsection.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 559; Pub. L. 92-128, § 2(b), Sept. 25, 1971, 85 Stat. 348.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2282	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 1", 75 Stat. 640.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Pars. (2), (3) and (4) of subsec. (b) of section 10 of the Atomic Energy Act of 1946 (60 Stat. 766, 767), as in effect before August 30, 1954, referred to in subsec. (b)(1)(D), are now covered by sections 2274, 2275 and 2276, respectively, of Title 42, The Public Health and Welfare.

Subsecs. (a) and (b) of section 16 of the Atomic Energy Act of 1946 (60 Stat. 773), as in effect before August 30, 1954, referred to in subsec. (b)(1)(E), are now covered by sections 2272 and 2273, respectively, of Title 42, The Public Health and Welfare.

Articles 104 and 106 of the Uniform Code of Military Justice, referred to in subsec. (b)(2)(A), are sections 904 and 906, respectively, of Title 10, Armed Forces. The Uniform Code of Military Justice, in its entirety, is set out in section 801 et seq. of Title 10, Armed Forces.

AMENDMENTS

1971—Subsec. (c)(1)(C). Pub. L. 92-128 deleted as applicable offenses under subsec. (a) of this section ", 822 (conspiracy or evasion of apprehension during internal security emergency), or 823 (aiding evasion or apprehension during internal security emergency)" following "classified information)".

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8311, 8313, 8315, 8316, 8318, 8320 of this title.

§ 8313. Absence from the United States to avoid prosecution

(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311(2) and (3) of this title, if the individual—

(1) is under indictment, or has outstanding against him charges preferred under the Uniform Code of Military Justice—

(A) after July 31, 1956, for an offense named by section 8312(b) of this title; or

(B) after September 26, 1961, for an offense named by section 8312(c) of this title; and

(2) willfully remains outside the United States, or its territories and possessions including the Commonwealth of Puerto Rico, for more than 1 year with knowledge of the indictment or charges, as the case may be.

(b) The prohibition on payment of annuity or retired pay under subsection (a) of this section applies to the period after the end of the 1-year period and continues until—

(1) a nolle prosequi to the entire indictment is entered on the record or the charges are dismissed by competent authority;

(2) the individual returns and thereafter the indictment or charges is or are dismissed; or

(3) after trial by court or court-martial, the accused is found not guilty of the offense or offenses.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 561.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S.Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2283a	Sept. 26, 1961, Pub. L. 87-299, § 1, "Sec. 3", 75 Stat. 643.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The Uniform Code of Military Justice, referred to in text, is classified to chapter 47 (§ 801 et seq.) of Title 10, Armed Forces.

§ 8314. Refusal to testify

(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311(2) and (3) of this title, if the individual, before, on, or after September 1, 1954, refused or refuses, or knowingly and willfully failed or fails, to appear, testify, or produce a book, paper, record, or other document, relating to his service as an employee, before a Federal grand jury, court of the United States, court-martial, or congressional committee, in a proceeding concerning—

(1) his past or present relationship with a foreign government; or

(2) a matter involving or relating to an interference with or endangerment of, or involving or relating to a plan or attempt to interfere with or endanger, the national security or defense of the United States.

(b) The prohibition on payment of annuity or retired pay under subsection (a) of this section applies to the period after the date of the failure or refusal of the individual, or after September 1, 1954, whichever is later.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 561.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2283(a).	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 2(a)", 75 Stat. 642.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8311, 8315, 8316, 8318, 8320 of this title.

§ 8315. Falsifying employment applications

(a) An individual, or his survivor or beneficiary, may not be paid annuity or retired pay on the basis of the service of the individual which is creditable toward the annuity or retired pay, subject to the exceptions in section 8311(2) and (3) of this title, if the individual knowingly and willfully made or makes a false, fictitious, or fraudulent statement or representation, or knowingly and willfully concealed or conceals a material fact—

(1) before, on, or after September 1, 1954, concerning his—

(A) past or present membership in, affiliation or association with, or support of the Communist Party, or a chapter, branch, or subdivision thereof, in or outside the United States, or other organization, party, or group advocating—

(i) the overthrow, by force, violence, or other unconstitutional means, of the Government of the United States;

(ii) the establishment, by force, violence, or other unconstitutional means, of a Communist totalitarian dictatorship in the United States; or

(iii) the right to strike against the United States;

(B) conviction of an offense named by subsection (b) of section 8312 of this title, to the extent provided by that subsection; or

(C) failure or refusal to appear, testify, or produce a book, paper, record, or other document, as specified by section 8314 of this title; or

(2) before, on, or after September 26, 1961, concerning his conviction of an offense named by subsection (c) of section 8312 of this title, to the extent provided by that subsection;

in a document executed by the individual in connection with his employment in, or application for, a civilian or military office or position in or under the legislative, executive, or judicial branch of the Government of the United States or the government of the District of Columbia.

(b) The prohibition on the payment of annuity or retired pay applies—

(1) with respect to matters specified by subsection (a)(1) of this section, to the period after the statement, representation, or concealment of fact is made or occurs, or after September 1, 1954, whichever is later; and

(2) with respect to matters specified by subsection (a)(2) of this section, to the period after the statement, representation, or concealment of fact is made or occurs, or after September 26, 1961, whichever is later.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 562.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2283 (b), (c).	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 2 (b), (c)", 75 Stat. 642.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8311, 8316, 8318, 8320 of this title.

§ 8316. Refund of contributions and deposits

(a) When payment of annuity or retired pay is denied under this subchapter because an individual was convicted of an offense named by section 8312 of this title, to the extent provided by that section, or violated section 8314 or 8315 of this title—

(1) the amount, except employment taxes, contributed by the individual toward the annuity, less the amount previously refunded or paid as annuity benefits; and

(2) deposits made under section 1438 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504) to provide the eligible beneficiary with annuity for any period, less the amount previously paid as retired pay benefits;

shall be refunded, on appropriate application therefor—

(A) to the individual;

(B) if the individual is dead, to the beneficiary designated to receive refunds by or under the statute, regulation, or agreement under which the annuity, the benefits of which are denied under this subchapter, would have been payable; or

(C) if a beneficiary is not designated, in the order of precedence prescribed by section 8342(c) of this title or section 2771 of title 10, as the case may be.

(b) A refund under subsection (a) of this section shall be made with interest at the rate and for the period provided under the statute, regulation, or agreement under which the annuity

would have been payable. However, interest may not be computed—

(1) if the individual was convicted of an offense named by section 8312(b) of this title, or violated section 8314 or 8315(a)(1) of this title, for the period after the conviction or commission of the violation, or after September 1, 1954, whichever is later; or

(2) if the individual was convicted of an offense named by section 8312(c) of this title, or violated section 8315(a)(2) of this title, for the period after the conviction or commission of the violation, or after September 26, 1961, whichever is later.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 563.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2284 (a), (b).	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 4 (a), (b)", 75 Stat. 644.
....	5 U.S.C. 2284a (b).	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 5(b)", 75 Stat. 645.

This section is reorganized for clarity and conciseness.

The words "and section 3282 of Title 18" in former section 2284(a) are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 5 of the Uniform Services Contingency Option Act of 1953 (67 Stat. 504), referred to in text, is now covered by section 1438 of Title 10, Armed Forces.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8318 of this title.

§ 8317. Repayment of annuity or retired pay properly paid; waiver

(a) An individual, or his survivor or beneficiary, to whom payment of annuity is denied under this subchapter is not thereafter required to repay that part of the annuity otherwise properly paid to the individual, or to his survivor or beneficiary on the basis of the service of the individual, which is in excess of the aggregate amount of the contributions of the individual toward the annuity, with applicable interest.

(b) An individual, including an eligible beneficiary under chapter 73 of title 10 or section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), to whom payment of retired pay is denied under this subchapter is not thereafter required to repay retired pay otherwise properly paid to the individual or beneficiary which is paid in violation of this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 563.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 2284 (c), (d).	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 4 (c), (d)", 75 Stat. 644.
(b)	5 U.S.C. 2284a (a).	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 5(a)", 75 Stat. 645.

The words "and section 3282 of Title 18" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 5 of the Uniformed Services Contingency Option Act of 1953 (67 Stat. 504), referred to in text, is now covered by section 1438 of Table 10, Armed Forces.

§ 8318. Restoration of annuity or retired pay

(a) If an individual who was convicted, before, on, or after September 1, 1954, of—

(1) an offense named by section 8312 of this title; or

(2) an offense constituting a violation of section 8314 or 8315 of this title;

is pardoned by the President, the right of the individual and his survivor or beneficiary to receive annuity or retired pay previously denied under this subchapter is restored as of the date of the pardon.

(b) The President may restore, effective as of the date he prescribes, the right to receive annuity or retired pay which is denied, before, on, or after September 1, 1954, under section 8314 or 8315 of this title, to the individual and to his survivor or beneficiary.

(c) Payment of annuity or retired pay which results from pardon or restoration by the President under subsection (a) or (b) of this section may not be made for a period before—

(1) the date of pardon referred to by subsection (a) of this section; or

(2) the effective date of restoration referred to by subsection (b) of this section.

(d) Credit for a period of service covered by a refund under section 8316 of this title is allowed only after the amount refunded has been redeposited.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 563.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2288	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 9", 75 Stat. 646.

The words "and section 3282 of Title 18" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

RETROACTIVE RESTORATION OF ANNUITY AND RETIRED PAY; REDEPOSITS OF CONTRIBUTIONS AND OFFSETS

Section 2 of Pub. L. 87-299, Sept. 26, 1961, 75 Stat. 648, provided that:

"(a) Subject to subsection (b) of this section, any person, including his survivor or beneficiary, to whom annuity or retired pay is not payable under the Act of September 1, 1954 [former chapter 31 of this title, now this subchapter], as in effect at any time prior to the date of enactment of this Act [Sept. 26, 1961], by reason of any conviction of an offense, any commission of a violation, any refusal to answer, or any absence under indictment, or under charges, for any offense, shall be restored the right to receive such annuity or retired pay for any and all periods for which he would have had the right to receive such annuity or retired pay if the Act of September 1, 1954 [former chapter 31 of this title, now this subchapter], had not been enacted, unless, under the amendment made by the first section of this Act [amending former chapter 31 of this title, now this subchapter, and section 3282 of Title 18], such annuity or retired pay remains nonpayable to such person, including his survivor or beneficiary.

"(b) No annuity accrued or accruing, prior to, on, or after the date of enactment of this Act [Sept. 26, 1961], on account of the restoration, by reason of the amendment made by the first section of this Act [amending former chapter 31 of this title, now this subchapter, and section 3282 of Title 18] and by reason of subsection (a) of this section, of the right to receive such annuity, shall be paid until any sum refunded under section 3 of the Act of September 1, 1954 [former section 2284 of this title, now section 8316 of this title, prior to amendment in Sept. 26, 1961], as in effect prior to the date of enactment of such amendment [Sept. 26, 1961], is deposited or is collected by offset against the annuity."

§ 8319. Removal of members of the uniformed services from rolls; restoration; reappointment

(a) The President may drop from the rolls a member of a uniformed service who is deprived of retired pay under this subchapter.

(b) The President may restore—

(1) military status to an individual dropped from the rolls to whom retired pay is restored under this subchapter or under section 2 of the Act of September 26, 1961 (75 Stat. 648); and

(2) all rights and privileges to the individual and his beneficiaries of which he or they were deprived because his name was dropped from the rolls.

(c) If the individual restored was a commissioned officer, the President alone may reappoint him to the grade and position on the retired list held when his name was dropped from the rolls.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 564.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2287	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 8", 75 Stat. 646.

The words "and section 3282 of Title 18" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

References in Text

Section 2 of the Act of September 26, 1961 (75 Stat. 648), referred to in subsec. (b)(1), is set out as a note under section 8318 of this title.

§ 8320. Offense or violation committed in compliance with orders

When it is established by satisfactory evidence that an individual—

(1) was convicted of an offense named by section 8312 of this title; or

(2) violated section 8314 or 8315 of this title;

as a result of proper compliance with orders issued, in a confidential relationship, by an agency or other authority of the Government of the United States or the government of the District of Columbia, the right to receive annuity or retired pay may not be denied.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 564.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2285(c)	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 6(c)", 75 Stat. 645.

The reference to conviction of an offense which constitutes a violation of former section 2283 (which is carried into this title as sections 8314 and 8315) is omitted as being covered by the words "violated section 8314 or 8315 of this title" which are added on authority of the words "conviction or violation" in former section 2285(c).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8321. Liability of accountable employees

An accountable employee may not be held responsible for a payment made in violation of this subchapter when the payment made is in due course and without fraud, collusion, or gross negligence.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 564.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2286	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 7", 75 Stat. 645.

The words "and section 3282 of Title 18" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8322. Effect on other statutes

This subchapter does not restrict authority under a statute, other than this subchapter, to deny or withhold benefits authorized by statute.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 564.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2285 (a), (b).	Sept. 26, 1961, Pub. L. 87-299, § 1 "Sec. 6 (a), (b)", 75 Stat. 645.

The section is reorganized for clarity and conciseness.

The words "and section 3282 of Title 18" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER III—CIVIL SERVICE RETIREMENT

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 1308, 3373, 3374, 5581, 5595, 6303, 8103, 8116, 8501, 8701, 8901 of this title; title 2 sections 31b-5, 60e-3, 72a; title 7 section 331; title 10 sections 1450, 1452; title 11 section 68; title 12 sections 1723a, 2227; title 14 sections 433, 434; title 16 section 1168; title 22 sections 1065, 1071, 2025, 2504; title 26 section 3121; title 28 sections 332, 611, 625, 627, 634; title 31 section 43; title 42 sections 410, 415, 417, 1395s; title 50 App. section 1291.

SUBCHAPTER REFERRED TO IN D.C. CODE

This subchapter is referred to in sections 1-254, 4-183b, 31-696a, 31-728, 31-1403, 31-1542, 31-1603, 31-1623 of the District of Columbia Code.

§ 8331. Definitions

For the purpose of this subchapter—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title;

(B) the Architect of the Capitol, an employee of the Architect of the Capitol, and an employee of the Botanic Garden;

(C) a Congressional employee as defined by section 2107 of this title (other than the Architect of the Capitol, an employee of the Architect of the Capitol, and an employee of the Botanic Garden), after he gives notice in writing to the official by whom he is paid of his desire to become subject to this subchapter;

(D) a temporary Congressional employee appointed at an annual rate of pay, after he gives notice in writing to the official by whom he is paid of his desire to become subject to this subchapter;

(E) a United States Commissioner whose total pay for services performed as Commissioner is not less than $3,000 in each of the last 3 consecutive calendar years ending after December 31, 1954;

(F) an individual employed by a county committee established under section 590h(b) of title 16;

(G) an individual employed by the government of the District of Columbia;

(H) an individual employed by Gallaudet College;

(I) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

(J) an alien (i) who was previously employed by the Government, (ii) who is employed full time by a foreign government for the purpose of protecting or furthering the interests of the United States during an interruption of diplomatic or consular relations, and (iii) for whose services reimbursement is made to the foreign government by the United States;

but does not include—

(i) a justice or judge of the United States as defined by section 451 of title 28;

(ii) an employee subject to another retirement system for Government employees;

(iii) an employee or group of employees in or under an Executive agency excluded by the Civil Service Commission under section 8347(g) of this title;

(iv) an individual or group of individuals employed by the government of the District of Columbia excluded by the Commission under section 8347(h) of this title;

(v) a temporary employee of the Administrative Office of the United States Courts or of a court named by section 610 of title 28;

(vi) a construction employee or other temporary, part-time, or intermittent employee of the Tennessee Valley Authority;

(vii) an employee under the Office of the Architect of the Capitol excluded by the Architect of the Capitol under section 8347(i) of this title;

(viii) an employee under the Library of Congress excluded by the Librarian of Congress under section 8347(j) of this title; or

(ix) a student-employee as defined by section 5351 of this title.

Notwithstanding this paragraph, the employment of a teacher in the recess period between two school years in a position other than a teaching position in which he served immediately before the recess period does not qualify the individual as an employee for the purpose of this subchapter. For the purpose of the preceding sentence, "teacher" and "teaching position" have the meanings given them by section 901 of title 20;

(2) "Member" means a Member of Congress as defined by section 2106 of this title, and a Delegate to Congress, after he gives notice in writing to the official by whom he is paid of his desire to become subject to this subchapter;

(3) "basic pay" includes—

(A) the amount a Member received from April 1, 1954, to February 28, 1955, as expense allowance under section 601(b) of the Legislative Reorganization Act of 1946 (60 Stat. 850), as amended; and that amount from January 3, 1953, to March 31, 1954, if deposit is made therefor as provided by section 8334 of this title;

(B) additional pay provided by—

(i) subsection (a) of section 60e-7 of title 2 and the provisions of law referred to by that subsection; and

(ii) sections 60e-8, 60e-9, 60e-10, 60e-11, 60e-12, 60e-13, and 60e-14 of title 2;

(C) premium pay under section 5545(c)(1) of this title; and

(D) with respect to a law enforcement officer, premium pay under section 5545(c)(2) of this title;

but does not include bonuses, allowances, overtime pay, military pay, pay given in addition to the base pay of the position as fixed by law or regulation except as provided by subparagraphs (B), (C), and (D) of this paragraph, retroactive pay under section 5344 of this title in the case of a retired or deceased employee, uniform allowances under section 5901 of this title, or lump-sum leave payments under subchapter VI of chapter 55 of this title. For an employee paid on a fee basis, the maximum amount of basic pay which may be used is $10,000;

(4) "average pay" means the largest annual rate resulting from averaging an employee's or Member's rates of basic pay in effect over any 3 consecutive years of creditable service or, in the case of an annuity under subsection (d) or (e)(1) of section 8341 of this title based on service of less than 3 years, over the total service, with each rate weighted by the time it was in effect;

(5) "Fund" means the Civil Service Retirement and Disability Fund;

(6) "disabled" and "disability" mean totally disabled or total disability, respectively, for

useful and efficient service in the grade or class of position last occupied by the employee or Member because of disease or injury not due to vicious habits, intemperance, or willful misconduct on his part within 5 years before becoming so disabled;

(7) "Government" means the Government of the United States, the government of the District of Columbia, and Gallaudet College;

(8) "lump-sum credit" means the unrefunded amount consisting of—

(A) retirement deductions made from the basic pay of an employee or Member;

(B) amounts deposited by an employee or Member covering earlier service; and

(C) interest on the deductions and deposits at 4 percent a year to December 31, 1947, and 3 percent a year thereafter compounded annually to December 31, 1956, or, in the case of an employee or Member separated or transferred to a position in which he does not continue subject to this subchapter before he has completed 5 years of civilian service, to the date of the separation or transfer;

but does not include interest—

(i) if the service covered thereby aggregates 1 year or less; or

(ii) for the fractional part of a month in the total service;

(9) "annuitant" means a former employee or Member who, on the basis of his service meets all requirements of this subchapter for title to annuity and files claim therefor;

(10) "survivor" means an individual entitled to annuity under this subchapter based on the service of a deceased employee, Member, or annuitant;

(11) "survivor annuitant" means a survivor who files claim for annuity;

(12) "service" means employment creditable under section 8332 of this title;

(13) "military service" means honorable active service—

(A) in the armed forces;

(B) in the Regular or Reserve Corps of the Public Health Service after June 30, 1960; or

(C) as a commissioned officer of the Environmental Science Services Administration after June 30, 1961;

but does not include service in the National Guard except when ordered to active duty in the service of the United States;

(14) "member service" means service as a Member and includes the period from the date of the beginning of the term for which elected or appointed to the date on which he takes office as a Member;

(15) "price index" means the Consumer Price Index (all items—United States city average) published monthly by the Bureau of Labor Statistics;

(16) "base month" means the month for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase;

(17) "normal cost" means the entry-age normal cost computed by the Civil Service Commission in accordance with generally accepted actuarial practice and expressed as a level percentage of aggregate basic pay;

(18) "Fund balance" means the sum of—

(A) the investments of the Fund calculated at par value; and

(B) the cash balance of the Fund on the books of the Treasury;

(19) "unfunded liability" means the estimated excess of the present value of all benefits payable from the Fund to employees and Members, and former employees and Members, subject to this subchapter, and to their survivors, over the sum of—

(A) the present value of deductions to be withheld from the future basic pay of employees and Members currently subject to this subchapter and of future agency contributions to be made in their behalf; plus

(B) the present value of Government payments to the Fund under section 8348(f) of this title; plus

(C) the Fund balance as of the date the unfunded liability is determined; and

(20) "law enforcement officer" means an employee, the duties of whose position are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses against the criminal laws of the United States, including an employee engaged in this activity who is transferred to a supervisory or administrative position. For the purpose of this paragraph, "detention" includes the duties of—

(A) employees of the Bureau of Prisons and Federal Prison Industries, Incorporated;

(B) employees of the Public Health Service assigned to the field service of the Bureau of Prisons or of the Federal Prison Industries, Incorporated;

(C) employees in the field service at Army or Navy disciplinary barracks or at confinement and rehabilitation facilities operated by any of the armed forces; and

(D) employees of the Department of Corrections of the District of Columbia, its industries and utilities;

whose duties in connection with individuals in detention suspected or convicted of offenses against the criminal laws of the United States or of the District of Columbia or offenses against the punitive articles of the Uniformed Code of Military Justice (chapter 47 of title 10) require frequent (as determined by the appropriate administrative authority with the concurrence of the Commission) direct contact with these individuals in their detention, direction, supervision, inspection, training, employment, care, transportation, or rehabilitation; and

(21) "firefighter" means an employee, the duties of whose position are primarily to perform work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment, including an employee engaged in this activity who is transferred to a supervisory or administrative position.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 564; Pub. L. 89-737, § 1(2), Nov. 2, 1966, 80 Stat. 1164; Pub. L. 90-83, § 1(72), Sept. 11, 1967, 81 Stat.

213; Pub. L. 90-623, § 1(21), Oct. 22, 1968, 82 Stat. 1313; Pub. L. 91-93, title I, § 101, title II, § 201(a), Oct. 20, 1969, 83 Stat. 136, 138; Pub. L. 92-352, title I, § 105(a), July 13, 1972, 86 Stat. 490; Pub. L. 93-350, § 2, July 12, 1974, 88 Stat. 355; Pub. L. 94-183, § 2(38), Dec. 31, 1975, 89 Stat. 1058.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2251 (less (h)-(j)).	July 31, 1956, ch. 804, § 401 "Sec. 1 (less (h)-(j))", 70 Stat. 743. Apr. 8, 1960, Pub. L. 86-415, § 6(c), 74 Stat. 35. July 7, 1960, Pub. L. 86-604 § 1(a), 74 Stat. 358. Sept. 14, 1961, Pub. L. 87-233, § 2, 75 Stat. 507. Oct. 11, 1962, Pub. L. 87-793, § 1102 (a), 76 Stat. 869. Feb. 7, 1964, Pub. L. 88-267, § 1(a), 78 Stat. 8.
....	5 U.S.C. 2252 (less (e), (f) (words after semicolon), (g) (2d sentence), (h) (words after colon)).	July 31, 1956, ch. 804, § 401 "Sec. 2 (less (e), (f) (words after semicolon), (g) (2d sentence))", 70 Stat. 745. July 1, 1960, Pub. L. 86-568, § 115(b) (1) "(h) (less words after colon)", 74 Stat. 302. Feb. 7, 1964, Pub. L. 88-267, § 1 (b), (c), 78 Stat. 9.
....	5 U.S.C. 1054 (1st 27 words).	Aug. 4, 1947, ch. 452, § 5 (1st 27 words), 61 Stat. 728.
....	[Uncodified]	Aug. 25, 1958, Pub. L. 85-745, § 1(b) (last sentence, as applicable to the Civil Service Retirement Act), 72 Stat. 838.
....	5 U.S.C. 2358(c) (as applicable to the Civil Service Retirement Act).	July 17, 1959, Pub. L. 86-91, § 10(c) (as applicable to the Civil Service Retirement Act), 73 Stat. 217.
....	5 U.S.C. 932c(d)	June 28, 1955, ch. 189, § 4(i), 69 Stat. 178.
....	5 U.S.C. 932d(d)	June 20, 1958, Pub. L. 85-462, § 4(g), 72 Stat. 208.
....	5 U.S.C. 932e(f)	July 1, 1960, Pub. L. 86-568, § 117(i), 74 Stat. 304.
....	5 U.S.C. 932f(e)	Oct. 11, 1962, Pub. L. 87-793, § 1005(h), 76 Stat. 867.
....	5 U.S.C. 932g(d)	Aug. 14, 1964, Pub. L. 88-426, § 202(d), 78 Stat. 413.
....	5 U.S.C. 1182(b)	Sept. 2, 1958, Pub. L. 85-872, § 2(b), 72 Stat. 1696.
....	5 U.S.C. 2132 (as applicable to the Civil Service Retirement Act, as amended).	Sept. 1, 1954, ch. 1208, § 403 (as applicable to the Civil Service Retirement Act, as amended), 68 Stat. 1115.

In paragraph (1), the specific exception of the President, appearing in former section 2252(b), is omitted as unnecessary because he is not included in the definition of "employee".

In paragraph (1)(B), the definition of "Congressional employee" in former section 2251(c) is omitted as unnecessary in view of the definition of the term in section 2107.

In paragraph (1)(E), the words "Notwithstanding any other provision of law or any Executive order" are omitted as unnecessary.

In paragraph (1)(i), the words "justice or" are added on authority of section 371 and 372 of title 28.

Paragraph (1)(iii) and (iv) is based on former section 2252(e), which is carried into section 8347(g) and (h).

Paragraph (1)(vii) and (viii) is based on former section 2252(f), which is carried in part into section 8347(i) and (j).

In paragraph (1), the last sentence is added on authority of former section 2351, which is scheduled for transfer to section 901 of title 20.

In paragraph (3), the words "or lump-sum leave payments under subchapter VI of chapter 55 of this title" are added on authority of former section 61b (6th sentence), which is carried into section 5551.

In paragraph (4)(B), references to sections 60e-7, 60e-8, 60e-9, 60e-10, and 60e-11 of title 2 are substituted for the words "this section", appearing in former sections 932c(d), 932d(d), 932e(f), 932f(e), and 932g(d), to reflect the scheduled transfer of those sections to title 2.

In paragraph (5), the words "the Civil Service Retirement and Disability Fund" are substituted for "the civil service retirement and disability fund created by the Act of May 22, 1920".

In paragraph (7), the words "Government of the United States" are coextensive with and substituted for "the executive, judicial, and legislative branches of the United States Government, including Government-owned or controlled corporation".

In paragraph (13), the words "armed forces" are coextensive with and substituted for "Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States" in view of the definition of "armed forces" in section 2101.

The definition of "Commission" in former section 2251 (m) is omitted as unnecessary as the title "Civil Service Commission" is fully set out the first time it is used in each section.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8331(1)(B), (C).	5 App.: 2252(c)	Sept. 26, 1966, Pub. L. 89-604 § 1(b), 80 Stat. 846.
8331(3) (B)(ii).	5 App.: 932h(c)	Oct. 29, 1965, Pub. L. 89-301, § 11(d), 79 Stat. 1120.
	5 App.: 932i(c)	July 18, 1966, Pub. L. 89-504, § 302(d), 80 Stat. 295.
8331(13)	[No source]	[No source]
8331 (15), (16).	5 App.: 2251(t)	Sept. 27, 1965, Pub. L. 89-205, § 1(a), 79 Stat. 840.

In paragraphs (1)(C), (D) and (2), the words "become subject to" are substituted for "come within the purview of" for consistency within the subchapter.

In paragraph (3)(B)(ii), references to sections 60e-12 and 60e-13 of title 2 are substituted for the words "this section" appearing in 5 U.S.C. App. 932h(c) and 932i(c), to reflect the scheduled transfer of those sections to title 2 (See table IV).

In paragraph (8)(C), the words "in which he does not continue subject to" are substituted for "not within the purview of" for consistency within the subchapter and to reflect that it is the individual, rather than the position, that is subject to this subchapter.

The amendment to paragraph (13) reflects Reorganization Plan No. 2 of 1965 (79 Stat. 1318), effective July 13, 1965, which consolidated the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration.

REFERENCES IN TEXT

Section 1(b) of the act of August 25, 1958 (72 Stat. 838), referred to in par. (1)(I), is set out as a note under section 102 of Title 3, The President.

Section 601(b) of the Legislative Reorganization Act of 1946 (60 Stat. 850), as amended, referred to in par. (3)(A), was classified to section 31a of Title 2, The Congress, which was repealed by act Mar. 2, 1955, ch. 9, § 4(b), 69 Stat. 11.

AMENDMENTS

1975—Par. (4). Pub. L. 94-183 deleted provision relating to member's option of having average pay computed from averaging rates of basic pay in effect over all periods of member's service after August 2, 1946.

1974—Par. (3). Pub. L. 93-350, § 2(a), added subpar. (D) and inserted reference to subpar. (D) in closing provisions of par. (3).

Pars. (20), (21). Pub. L. 93-350, § 2(b), added pars. (20) and (21).

1972—Par. (1)(J). Pub. L. 92-352 added par. (1)(J).

1969—Par. (4)(A). Pub. L. 91-93, § 201(a), reduced the number of years of creditable service from 5 to 3 consecutive years and provided for averaging rate of basic pay over the total service in the case of an annuity under subsec. (d) or (e)(1) of section 8341 of this title based on service of less than three years.

Pars. (17)-(19). Pub. L. 91-93, § 101, added pars. (17)-(19).

1968—Par. (3)(B)(ii). Pub. L. 90-623 added reference to section 60e-14 of Title 2.

1966—Par. (3). Pub. L. 89-737 added subpar. (C) and, in the exception set out in the material following subpar. (C), substituted reference to subpars. (B) and (C) for reference to subpar. (B).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment of par. (3) by Pub. L. 93-350 effective at the beginning of the first applicable pay period which begins after Dec. 31, 1974, and enactment of pars. (20) and (21) by Pub. L. 93-350 effective July 12, 1974, see section 7 of Pub. L. 93-350, set out as a note under section 3307 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Section 105(b) of Pub. L. 92-352 provided that: "Subsection (a) of this section [adding subpar. (1)(J) of this section] shall become effective on the first day of the second month which begins after its enactment [July 13, 1972]."

EFFECTIVE DATE OF 1969 AMENDMENT

Section 207(a) of Pub. L. 91-93 provided that: "The amendments made by sections 201, 202, 203, and 206(a) of this Act [to sections 8331(a)(A), 8333(c), 8334(g)(5), 8339(b), (c)(2), (f), (i), (m), and 8341(d) of this title, respectively] shall not apply in the case of persons retired or otherwise separated prior to the date of enactment of this Act [Oct. 20, 1969], and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if such sections had not been enacted."

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment of par. (3) of this section by Pub. L. 89-737 applicable with respect to premium pay payable from and after the first day of the first pay period which begins after the date of enactment of Pub. L. 89-737, which was approved Nov. 2, 1966, see section 4 of Pub. L. 89-737, set out in the note under section 8114 of this title.

SHORT TITLE

Section 1 of Pub. L. 91-93 provided: "That this Act [which enacted sections 8331(17) to (19), 8334(g)(5), 8339(m), and 8348(f), (g), of this title amended sections 1308(c), 8331(4)(A), 8333(c), 8334(a), (c), 8339(b), (c)(2), (f), (i), 8340(b), (c)(2), 8341(d), (e)(1), and 8348(a) of this title, enacted provisions set out as notes under sections 8331, 8334, 8340, 8341, and 8348 of this title, and repealed provisions set out as a note under section 8339 of this title] may be cited as the 'Civil Service Retirement Amendments of 1969'."

SAVINGS CLAUSE

Section 105(c) of Pub. L. 92-352 provided that: "The amendments made by such subsection (a) [which added subpar. (1)(J) of this section] shall not apply in the cases of persons retired or otherwise separated prior to the effective date established under subsection (b) of this section [see Effective Date of 1972 Amendment note above], and the rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted."

TRANSFER OF FUNCTIONS

The Commissioned Officer Corps of the Environmental Science Services Administration was changed to the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration, see 1970 Reorg. Plan No. 4, § 4(d), eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, set out in the Appendix to this title.

CANAL ZONE GOVERNMENT AND PANAMA CANAL COMPANY EMPLOYEES

Section 13 of Pub. L. 85-550, July 25, 1958, 72 Stat. 410, as amended by Pub. L. 87-845, § 2, Oct. 18, 1962, 76A Stat. 697, provided that:

"(a) Effective on and after the first day of the first pay period which begins in the third calendar month following the calendar month in which this Act is enacted [July 1958]—

"The Act of July 8, 1937 (50 Stat. 478; 68 Stat. 17; Public Numbered 191, Seventy-fifth Congress; Public Law 299, Eighty-third Congress), shall apply only with respect to those individuals within the classes of individuals subject to such Act of July 8, 1937, whose employment shall have been terminated, prior to such first day of such first pay period, in the manner provided by the first section of such Act; and

"(b) On on before the first day of the first pay period which begins in the third calendar month following the calendar month in which this Act is enacted [July 1958], the Panama Canal Company shall pay, as an agency contribution, into the civil service retirement and disability fund created by the Act of May 22, 1920, for each individual—

"(1) who is employed, on such first day of such first pay period, by the Canal Zone Government or by the Panama Canal Company, and

"(2) who, by reason of the enactment of this section and the operation of the Civil Service Retirement Act (5 U.S.C. 2251-2267) [now this subchapter], is subject to such Act on and after such first day of such first pay period,

for service performed by such individual in the employment of—

"(A) the Panama Railroad Company during the period which began on June 29, 1948, and ended on June 30, 1951, or

"(B) the Panama Canal (former independent agency), the Canal Zone Government, or the Panama Canal Company during the period which began on July 1, 1951, and which ends immediately prior to such first day of such first pay period,

an amount equal to the aggregate amount which such individual would have been required to contribute for retirement purposes if he had been subject to the Civil Service Retirement Act during such periods of service.

"(c) Nothing contained in this section shall affect—

"(1) the rights of any individual existing immediately prior to such first day of such first pay period above specified, or

"(2) the continuing obligations of the Canal Zone Government and the Panama Canal Company under section 4(a) of the Civil Service Retirement Act (5 U.S.C. 2254(a)) [now section 8334(a) of this title], to reimburse the civil service retirement and disability fund for Government contributions to such fund covering service performed, on or after such first day of such first pay period above specified, by the employees concerned."

MEMBERS OF CIVILIAN FACULTIES OF UNITED STATES NAVAL ACADEMY AND UNITED STATES NAVAL POSTGRADUATE SCHOOL

Section 402 of act July 31, 1956, ch. 804, title IV, 70 Stat. 760, provided that:

"(a) On and after the effective date of this title [on the first day of the first month beginning more than sixty days after July 31, 1956] persons employed as members of the civilian faculties of the United States Naval Academy and the United States Naval Postgraduate School shall be included within the terms of the Civil Service Retirement Act [former chapter 30 of this title, now this subchapter], and on and after that date the Act of January 16, 1936 (49 Stat. 1092), as amended [now covered by section 7081 et seq. of Title 10, Armed Forces] shall not apply to such persons.

"(b) In lieu of the deposit prescribed by section 4(c) of the Civil Service Retirement Act [now section 8334(c) of this title] an employee who by virtue of subsection (a) is included within the terms of such Act [now this subchapter] shall deposit, for service rendered prior to the effective date of this title as a member of the civilian faculty of the United States Naval Academy or of the United States Naval Postgraduate School, a sum equal to so much of the repurchase price of his annuity policy carried as required by the Act of January 16, 1936, as amended [now covered by section 7081 et seq. of Title 10, Armed Forces], as is based on the monthly allotments which were registered with the Navy Allotment Office toward the purchase of that annuity, the deposit to be made within six months after the effective date of this title. Should the deposit not be made within that period no credit shall be allowed under the Civil Service Retirement Act [former chapter 30 of this title, now this subchapter] for service rendered as a member of the civilian faculty of the United States Naval Academy or of the United States Naval Postgraduate School subsequent to July 31, 1920, and prior to the effective date of this title. If the deposit is made, such service shall be held and considered to be service during which the employee was subject to the Civil Service Retirement Act [former chapter 30 of this title, now this subchapter]."

CROSS REFERENCES

Annual report of Civil Service Commission on operation of this subchapter, see section 1308 of this title.

Civil Service Retirement and Disability Fund, see section 8348 of this title.

Federal land banks, Federal intermediate credit banks, and banks for cooperatives, contribution to Civil Service Retirement and Disability Fund, see section 2221 et seq. of Title 12, Banks and Banking.

Peace Corps volunteers' service credited for purposes of this subchapter, see section 2504 of Title 22, Foreign Relations and Intercourse.

Referees in bankruptcy and their employees as officers and employees in judicial branch of Government within meaning of this subchapter, see section 68 of Title 11, Bankruptcy.

Retirement of employees of land-grant colleges, see section 331 of Title 7, Agriculture.

Right to compensation for scheduled disabilities specified by section 8107 not impaired by eligibility for benefits under this subchapter, see section 8116 of this title.

Uniform date for retirement of Federal personnel, see section 8301 of this title.

United States magistrates and necessary clerical and secretarial assistants employed in the offices of such full-time magistrates deemed officers and employees in the Federal judicial branch within meaning of this subchapter, see section 634 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3307, 3323, 8332, 8344, 8347, 8701, 8901 of this title; title 12 section 1723a; title 26 sections 402, 404, 7447; title 28 section 376.

§ 8332. Creditable service

(a) The total service of an employee or Member is the full years and twelfth parts thereof, excluding from the aggregate the fractional part of a month, if any.

(b) The service of an employee shall be credited from the date of original employment to the date of separation on which title to annuity is based in the civilian service of the Government. Credit may not be allowed for a period of separation from the service in excess of 3 calendar days. The service includes—

(1) employment as a substitute in the postal field service;

(2) service in the Pan American Sanitary Bureau;

(3) subject to section 8334(c) and 8339(i) of this title, service performed before July 10, 1960, as an employee of a county committee established under section 590h(b) of title 16 or of a committee or an association of producers described by section 610(b) of title 7;

(4) service as a student-employee as defined by section 5351 of this title only if he later becomes subject to this subchapter;

(5) a period of satisfactory service of a volunteer or volunteer leader under chapter 34 of title 22 only if he later becomes subject to this subchapter;

(6) Employment under section 709 of title 32, United States Code or any prior corresponding provision of law;

(7) a period of service of a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, or a period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973 only if he later becomes subject to this subchapter;

(8) subject to section 8334(c) and 8339(i) of this title, service performed after February 18, 1929, and before noon on January 3, 1971, as a United States Capitol Guide; and

(9) subject to sections 8334(c) and 8339(i) of this title, service as a substitute teacher for the government of the District of Columbia after July 1, 1955, if such service is not credited for benefits under any other retirement system established by a law of the United States.

The Civil Service Commission shall accept the certification of the Secretary of Agriculture or his designee concerning service for the purpose of this subchapter of the type performed by an employee named by paragraph (3) of this subsection. The Civil Service Commission shall accept the certification of the Capitol Guide Board concerning service for the purpose of this subchapter of the type described in paragraph (8) of this subsection and performed by an employee. For the purpose of paragraph (5) of this subsection—

(A) a volunteer and a volunteer leader are deemed receiving pay during their service at the respective rates of readjustment allowances payable under sections 2504(c) and 2505(1) of title 22; and

(B) the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and the termination of that service by the President or by death or resignation.

Service referred to in paragraph (6) is allowable only in the case of persons performing service under section 709 of title 32, United States Code, on or after the effective date of the National Guard Technicians Act of 1968.

(c) Except as provided by subsection (d) of this section, an employee or Member shall be allowed credit for periods of military service before the date of the separation on which title to annuity is based. However, if an employee or Member is awarded retired pay on account of military service, his military service may not be credited unless the retired pay is awarded—

(1) on account of a service-connected disability—

(A) incurred in combat with an enemy of the United States; or

(B) caused by an instrumentality of war and incurred in line of duty during a period of war as defined by section 301 of title 38; or

(2) under chapter 67 of title 10.

(d) For the purpose of section 8339(c)(1) of this title, a Member—

(1) shall be allowed credit only for periods of military service not exceeding 5 years, plus military service performed by the Member on leaving his office, for the purpose of performing military service, during a war or national emergency proclaimed by the President or declared by Congress and before his final separation from service as Member; and

(2) may not receive credit for military service for which credit is allowed for purpose of retired pay under other statute.

(e) This subchapter does not affect the right of an employee or Member to retired pay, pension, or compensation in addition to an annuity payable under this subchapter.

(f) Credit shall be allowed for leaves of absence without pay granted an employee while performing military service or while receiving benefits under subchapter I of chapter 81 of this title. An employee or former employee who returns to duty after a period of separation is deemed, for the purpose of this subsection, to have been in a leave of absence without pay for that part of the period in which he was receiving benefits under subchapter I of chapter 81 of this title or any earlier statute on which such subchapter is based. Except for a substitute in the postal field service, credit may not be allowed for so much of other leaves of absence without pay as exceeds 6 months in the aggregate in a calendar year.

(g) An employee who during the period of a war, or of a national emergency as proclaimed by the President or declared by Congress, leaves his position to enter the military service is deemed, for the purpose of this subchapter, as not separated from his civilian position because of that military service, unless he applies for and receives a lump-sum credit under this subchapter. However, the employee is deemed as not retaining his civilian position after December 31, 1956, or after the expiration of 5 years of that military service, whichever, is later.

(h) An employee who—

(1) has at least 5 years' Member service; and

(2) serves as a Member at any time after August 2, 1946;

may not be allowed credit for service which is used in the computation of an annuity under section 8339(c) of this title.

(i) An individual who qualifies as an employee under section 8331(1)(E) of this title is entitled to credit for his service as a United States Commissioner, which is not credited for the purpose of this subchapter for service performed by him in a capacity other than Commissioner, on the basis of—

(1) 1/313 of a year for each day on which he performed service as a Commissioner before July 1, 1945; and

(2) 1/260 of a year for each day on which he performed service as a Commissioner after June 30, 1945.

Credit for service performed as Commissioner may not exceed 313 days in a year before July 1, 1945, or 260 days in a year after June 30, 1945. For the purpose of this subchapter, the employment and pay of a Commissioner is deemed on a daily basis when actually employed.

(j) Notwithstanding any other provision of this section, military service, except military service covered by military leave with pay from a civilian position, performed by an individual after December 1956, the period of an individual's services as a volunteer under part A of title VIII of the Economic Opportunity Act of 1964, and the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22, shall be excluded in determining the aggregate period of service on which an annuity payable under this subchapter to the individual or to his widow or child is based, if the individual, widow, or child is entitled, or would on proper application be entitled, at the time of that determination, to monthly old-age or survivors benefits under section 402 of title 42 based on the individual's wages and self-employment income. If the military service or service as a volunteer under part A of title VIII of the Economic Opportunity Act of 1964 or as a volunteer or volunteer leader under chapter 34 of title 22 is not excluded by the preceding sentence, but on becoming 62 years of age, the individual or widow becomes entitled, or would on proper application be entitled, to the described benefits, the Civil Service Commission shall redetermine the aggregate period of service on which the annuity is based, effective as of the first day of the month in which he or she becomes 62 years of age, so as to exclude that service. The Secretary of Health, Education, and Welfare, on request of the Commission, shall inform the Commission whether or not the individual, widow, or child is entitled at any named time to the described benefits. For the purpose of this subsection, the period of an individual's service as a volunteer or volunteer leader under chapter 34 of title 22 is the period between enrollment as a volunteer or volunteer leader and termination of that service by the President or by death or resignation and the period of an individual's service as a volunteer under part A of title VIII of the Economic Opportunity Act of 1964 is the period between enrollment as a volunteer and termination of that service by the Director of the Office of Economic Opportunity or by death or resignation.

(k)(1) An employee who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8331(1) of this title, within 60 days after entering on that leave without pay, may file with his employing agency an election to receive full retirement credit for his periods of that leave without pay and arrange to pay currently into the Fund, through his employing agency, amounts equal to the retirement deductions and agency contributions that would be applicable if he were in pay status. If the election and all payments provided by this paragraph are not made, the employee may not receive credit for the periods of leave without pay occurring after July 17, 1966, notwithstanding the second sentence of subsection (f) of this section. For the purpose of the preceding sentence, "employee" includes an employee who was on approved leave without pay and serving as a full-time officer or employee of such an organization on July 18, 1966, and who filed a similar election before September 17, 1966.

(2) An employee may deposit with interest an amount equal to retirement deductions representing any period or periods of approved leave without pay while serving, before July 18, 1966, as a full-time officer or employee of an organization composed primarily of employees as defined by section 8331(1) of this title. An employee who makes the deposit shall be allowed full retirement credit for the period or periods of leave without pay. If the employee dies, a survivor as defined by section 8331(10) of this title may make the deposit. If the deposit is not made in full, retirement credit shall be allowed in accordance with the second sentence of subsection (f) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 567; Pub. L. 90-83, § 1(73), Sept. 11, 1967, 81 Stat. 214; Pub. L. 90-486, § 5(a), Aug. 13, 1968, 82 Stat. 757; Pub. L. 91-177, title I, § 112(a), Dec. 30, 1969, 83 Stat. 831; Pub. L. 91-510, title IV, § 442(b), Oct. 26, 1970, 84 Stat. 1191; Pub. L. 91-658, § 1, Jan. 8, 1971, 84 Stat. 1961; Pub. L. 92-297, § 7(1), May 16, 1972, 86 Stat. 144; Pub. L. 92-454, § 1, Oct. 2, 1972, 86 Stat. 760; Pub. L. 93-113, title VI, § 602, Oct. 1, 1973, 87 Stat. 417; Pub. L. 94-183, § 2(32), (33), (39), Dec. 31, 1975, 89 Stat. 1058, 1059.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2253 (less (f) and (g)).	July 31, 1956, ch. 804, § 401 "Sec. 3 (less (f) and (g))", 70 Stat. 745.
		Aug. 1, 1956, ch. 837, § 409, 70 Stat. 877.
		June 17, 1957, Pub. L. 85-56, § 2201(2), 71 Stat. 157.
		Sept. 2, 1958, Pub. L. 85-857, § 13(c), 72 Stat. 1264.
		Sept. 21, 1959, Pub. L. 86-306, § 1, 73 Stat. 583.
		Sept. 22, 1961, Pub. L. 87-293, § 21, 75 Stat. 623.
....	5 U.S.C. 2252 (g) (2d sentence).	July 31, 1956, ch. 804, § 401 "Sec. 2(g) (2d sentence)", 70 Stat. 745.
....	5 U.S.C. 2252 (h) (2), (3)	July 1, 1960, Pub. L. 86-568, § 115(b) (1) "(h) (2), (3)", 74 Stat. 302.
		Oct. 4, 1961, Pub. L. 87-350, § 2(a), 75 Stat. 770.
....	5 U.S.C. 1054 (less 1st 27 words).	Aug. 4, 1947, ch. 452, § 5 (less 1st 27 words), 61 Stat. 728.
....	22 U.S.C. 2504 (f) (as applicable to the Civil Service Retirement Act, as amended).	Sept. 22, 1961, Pub. L. 87-293, § 5(f) (as applicable to the Civil Service Retirement Act, as amended), 75 Stat. 614.
		Dec. 13, 1963, Pub. L. 88-200, § 2(c) (as applicable to the Civil Service Retirement Act, as amended), 77 Stat. 359.

The section is reorganized for clarity.

Subsection (b)(B) is added on authority of section 2522(e) of title 22.

In subsection (c)(1)(B), the words "as that term is defined by section 301 of title 38" are coextensive with and substituted for "as that term is used in chapter 11 of Title 38".

In subsection (c)(2), the words "under chapter 67 of title 10" are substituted for "title III of Public Law 810, Eightieth Congress" on authority of the Act of Aug. 10, 1956, ch. 104, § 49(b), 70A Stat. 640.

In subsection (f), the words "without pay" are added after "leaves of absence" in the first sentence for clarity and to align it with the use of the term in the second sentence. The words "postal field service" are coextensive with and substituted for "postal service".

In subsection (g), the words "has left" are omitted as executed.

In subsection (i), the words "but nothing contained in this chapter [chapter 30 of title 5] shall affect, otherwise than for the purposes of this chapter, the basis, under applicable law other than this chapter, on which such United States Commissioner is employed or on which his compensation is determined and paid" are omitted from the last sentence as surplusage as there is nothing in the chapter that can reasonably be construed to affect that basis other than for the purposes of the chapter.

In subsection (j), the words "or section 2504(f) of Title 22" are omitted as unnecessary since the provisions of that section applicable to this subchapter are carried into subsection (b). The last sentence is added on authority of section 2522(e) of title 22.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8332(k)(1)	5 App.: 2253(k)(1)	July 18, 1966, Pub. L. 89-504, § 503, 80 Stat. 300.
8332(k)(2)	5 App.: 2253(k)(2)	"

In subsection (k)(1), the words "as defined by section 8331(1) of this title" are substituted for "as defined in section 1(a) of this Act". The words "occurring after July 17, 1966" are substituted for "occurring on or after date of enactment of this subsection". The words "notwithstanding the second sentence of subsection (f) of this section" are substituted for "notwithstanding the provisions of the second sentence of section 3(c) of this Act". The last sentence is substituted for the second sentence of former subsection (k)(1) to reflect the current effect of the subsection with regard to those employees who were on leave without pay on July 18, 1966, and who filed a similar election within the time prescribed by that sentence.

In subsection (k)(2), the words "before July 18, 1966" are substituted for "prior to the date of enactment of this subsection". The words "as defined by section 8331(1) of this title" are substituted for "as defined in section 1(a) of this Act". The second sentence is substituted for "and may receive full retirement credit for such period or periods of leave without pay". The words "If the employee dies" are substituted for "In the event of his death". The words "as defined by section 8331(10) of this title" are substituted for "as defined in section 1(o) of this Act". In the last sentence, the words "described in this paragraph" following "If the deposit" are omitted as unnecessary. The words "the second sentence of subsection (f) of this section" are substituted for "the second sentence of section 3(c) of this Act".

REFERENCES IN TEXT

Part A of title VIII of the Economic Opportunity Act of 1964, referred to in subsecs. (b)(7) and (j), was repealed by section 603 of Pub. L. 93-113, was formerly classified to sections 2992 to 2992b of Title 42, and is now covered by section 4952 to 4955 and 5042(13)(A) of Title 42, The Public Health and Welfare.

Part A, B, or C of title I of the Domestic Volunteer Service Act of 1973, referred to in subsec. (b)(7), are classified to Part A (§ 4951 et seq.), Part B (§ 4971 et seq.), and Part C (§ 4991 et seq.), respectively, of subchapter I of chapter 66 of Title 42, The Public Health and Welfare.

The effective date of the National Guard Technicians Act of 1968, referred to in subsec. (b), is the effective date of Pub. L. 90-486. See Effective Date note set out under section 709 of Title 32, National Guard.

AMENDMENTS

1975—Subsec. (b)(7). Pub. L. 94-183, § 2(39), deleted "(—U.S.C.—)" following "Domestic Volunteer Service Act of 1973".

Subsec. (b)(8). Pub. L. 94-183, § 2(32), substituted "after February 18, 1929, and before noon on January 3, 1971" for "on and after February 19, 1929, and prior to the effective date of section 442 of the Legislative Reorganization Act of 1970".

Subsec. (b)(9). Pub. L. 94-183, § 2(33), substituted "8339(i)" for "8339(h)".

1973—Subsec. (b)(7). Pub. L. 93-113 included period of service of a full-time volunteer enrolled in a program of at least one year's duration under part A, B, or C of title I of the Domestic Volunteer Service Act of 1973.

1972—Subsec. (b). Pub. L. 92-454 added cl. (9).

Pub. L. 92-297 substituted "8339(i)" for "8339(h)" in clauses (3) and (8).

1971—Subsec. (f). Pub. L. 91-658 provided for leave-without-pay status for retirement purposes of employees or former employees who return to duty after a period of separation during which compensation benefits were received.

1970—Subsec. (b). Pub. L. 91-510 added cl. (8) and provision for Civil Service Commission acceptance of certification of Capitol Guide Board concerning service for purpose of this subchapter, respectively.

1969—Subsec. (b). Pub. L. 91-177, § 112(a)(1), added cl. (7).

Subsec. (j). Pub. L. 91-177, § 112(a)(2), excluded the period of an individual's services as a VISTA volunteer under part A of subchapter VIII of Title 42, from the aggregate period of service determining annuity payments.

Pub. L. 91-177, § 112(a)(3), added provision for the computation of the period of service of a VISTA volunteer under part A of subchapter VIII of Title 42.

1968—Subsec. (b). Pub. L. 90-486 added subsec. (b)(6), and provisions that service referred to in subsec. (b)(6) is allowable only in the case of persons performing service under section 709 of title 32, on or after the specified effective date.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 5(a) of Pub. L. 91-658 provided that: "The amendment made by the first section of this Act [to subsec. (f) of this section] is effective only with respect to annuity accruing for full months beginning after the date of enactment of this Act [Jan. 8, 1971]; but any part of a period of separation referred to in such amendment [to subsec. (f) of this section] in which the employee or former employee was receiving benefits under subchapter I of chapter 81 of title 5, United States Code, or any earlier statute on which such subchapter is based shall be counted whether the employee returns to duty before, on, or after such date of enactment [Jan. 8, 1971]. With respect to any person retired before such date of enactment [Jan. 8, 1971] any such part of a period of separation shall be counted only upon application of the former employee."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-510 effective immediately prior to noon on Jan. 3, 1971, see section 601(1) of Pub. L. 91-510, set out as a note under section 72a of Title 2, The Congress.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 112(a) of Pub. L. 91-177 effective as to all former volunteers employed by the United States Government on or after the effective date of Pub. L. 91-177 which was approved on Dec. 30, 1969, see section 112(c) of Pub. L. 91-177 set out as a note under section 2994b of Title 42, Public Health and Welfare.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-486 effective Jan. 1, 1969, except that no deductions or withholding from salary which result therefrom shall commence before the first day of the first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90-486, set out as a note under section 709 of Title 32, National Guard.

DISTRICT OF COLUMBIA SUBSTITUTE TEACHERS

Section 2 of Pub. L. 92-454 provided that: "An annuity or survivor annuity based on the service of an employee or annuitant who performed service described in section 1 of this Act [subsec. (b)(9) of this section] shall, upon application to the Civil Service Commission, be recomputed, effective on the first day of the first month following the date of enactment of this Act [Oct. 2, 1972], in accordance with section 1 of this Act [subsec. (b)(9) of this section]."

NATIONAL GUARD TECHNICIANS

Amendment by section 5(a)(4) of Pub. L. 90-486 not applicable to persons employed prior to Jan. 1, 1969 whose employment was covered by the civil service retirement provisions of section 8331 et seq. of this title, see section 5(d) of Pub. L. 90-486, set out as a note under section 709 of Title 32, National Guard.

CREDITABLE SERVICE OF CERTAIN COMMISSIONED OFFICERS OF THE REGULAR OR RESERVE CORPS OF THE PUBLIC HEALTH SERVICE

Subsections (a) and (b) of section 6 of Pub. L. 86-415, Apr. 8, 1960, 74 Stat. 35, provided that:

"(a) Except as provided in subsection (b), service as a commissioned officer in the Regular Corps of the Public Health Service prior to July 1, 1960, shall be considered, for purposes of credit under the Civil Service Retirement Act [now covered by this subchapter], other than section 3(f) thereof [former section 2253(f), now section 8333(a) of this title], as civilian service performed by an employee (as defined in such Act [this subchapter]) and commissioned officers of the Reserve Corps of the Public Health Service, subject to the Civil Service Retirement Act [this subchapter] on June 30, 1960, shall be considered as voluntarily separated on that date, with respect to service as such officers, from civilian positions subject to such Act [this subchapter].

"(b) If a commissioned officer of the Regular or Reserve Corps of the Public Health Service is retired after June 30, 1960, and becomes entitled to retired pay from the Public Health Service, all service in the Regular or Reserve Corps of the Public Health Service prior to July 1, 1960, together with any other service which is performed at any time with the Public Health Service, other than as a commissioned officer, and which is credited to the officer for purposes of such retirement, shall be considered as military service for purposes of section 3(b) of the Civil Service Retirement Act [former section 2253(b) of this title, now subsecs. (c)-(e) of this section]; except that, in the case of any such officer who is retired pursuant to subsection (a) of section 211 of the Public Health Service Act [section 212(a) of Title 42], any such service which was performed prior to July 1, 1960, which was subject to the Civil Service Retirement Act [this subchapter], and with respect to which he has not, prior to his retirement, received a refund of deductions under the Civil Service Retirement Act [this subchapter], shall not be considered as military service for purposes of such section 3(b) [former section 2253(b) of this title, now subsecs. (c)-(e) of this section], but only if he waives his right to have such service included for purposes of computing the amount of his retired pay from the Service."

CROSS REFERENCES

Disability of personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs commissioned, appointed or enlisted in the Coast Guard shall be deemed to have been incurred incident to Coast Guard service, see section 433 of Title 14, Coast Guard.

Personnel appointed as constructors, see section 434 of Title 14.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 6303, 8331, 8345 of this title; title 22 section 1091; title 25 section 450i; title 26 section 7448; title 28 section 625; title 38 section 4114.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in sections 11-1562, 11-1564, 11-1567, 11-1568, 31-1403 of the District of Columbia Code.

§ 8333. Eligibility for annuity

(a) An employee must complete at least 5 years of civilian service before he is eligible for an annuity under this subchapter.

(b) An employee or Member must complete, within the last 2 years before any separation from service, except a separation because of death or disability, at least 1 year of creditable civilian service during which he is subject to this subchapter before he or his survivors are eligible for annuity under this subchapter based on the separation. If an employee or Member, except an employee or Member separated from the service because of death or disability, fails to meet the service requirement of the preceding sentence, the amounts deducted from his pay during the service for which no eligibility for annuity is established based on the separation shall be returned to him on the separation. Failure to meet this service requirement does not deprive the individual or his survivors of annuity rights which attached on a previous separation.

(c) A Member or his survivor is eligible for an annuity under this subchapter only if the amounts named by section 8334 of this title have been deducted or deposited with respect to his last 5 years of civilian service, or, in the case of a survivor annuity under section 8341(d) or (e)(1) of this title, with respect to his total service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 569; Pub. L. 91-93, title II, § 201(b), Oct. 20, 1969, 83 Stat. 138; Pub. L. 94-183, § 2(34), Dec. 31, 1975, 89 Stat. 1058.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (b)	5 U.S.C. 2253 (f), (g)	July 31, 1956, ch. 804, § 401 "Sec. 3(f), (g)", 70 Stat. 746.
(c)	5 U.S.C. 2256 (f) (last sentence).	July 31, 1956, ch. 804, § 401 "Sec. 6(f) (last sentence)", 70 Stat. 750. Aug. 27, 1958, Pub. L. 85-772, § 1(a), 72 Stat. 930.

In subsection (c), the words "eligible for" are substituted for "entitled to".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1975—Subsec. (c). Pub. L. 94-183 substituted "of this title" for "of title 5" and "of this title" for "of this chapter".

1969—Subsec. (c). Pub. L. 91-93 provided for eligibility for a survivor annuity under section 8341(d) or (e)(1) of this title only if the requisite amounts are deducted or deposited with respect to total service period.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-93 inapplicable in cases of persons retired or otherwise separated prior to Oct. 20, 1969; their rights and of their survivors continued as if such subsec. (c) had not been amended, see section 207(a) of Pub. L. 91-93, set out as a note under section 8331 of this title.

SECTION REFERRED TO IN D.C. CODE

This section is refered to in section 31-1403 of the District of Columbia Code.

§ 8334. Deductions, contributions, and deposits

(a) (1) The employing agency shall deduct and withhold 7 percent of the basic pay of an employee, 7½ percent of the basic pay of a Congressional employee, a law enforcement officer, and a firefighter, and 8 percent of the basic pay of a Member. An equal amount shall be contributed from the appropriation or fund used to pay the employee or, in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment. When an employee in the legislative branch is paid by the Clerk of the House of Representatives, the Clerk may pay from the contingent fund of the House the contribution that otherwise would be contributed from the appropriation or fund used to pay the employee.

(2) The amounts so deducted and withheld, together with the amounts so contributed, shall be deposited in the Treasury of the United States to the credit of the Fund under such procedures as the Comptroller General of the United States may prescribe. Deposits made by an employee or Member also shall be credited to the Fund.

(b) Each employee or Member is deemed to consent and agree to these deductions from basic pay. Notwithstanding any law or regulation affecting the pay of an employee or Member, payment less these deductions is a full and complete discharge and acquittance of all claims and demands for regular services during the period covered by the payment, except the right to the benefits to which the employee or Member is entitled under this subchapter.

(c) Each employee or Member credited with civilian service after July 31, 1920, for which retirement deductions or deposits have not been made, may deposit with interest an amount equal to the following percentages of his basic pay received for that service:

	Percentage of basic pay	*Service period*
Employee	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6½	November 1, 1956, to December 31, 1969.
	7	After December 31, 1969.
Member or employee for Congressional employee service.	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6½	November 1, 1956, to December 31, 1969.
	7½	After December 31, 1969.
Member for Member service.	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to August 1, 1946.
	6	August 2, 1946, to October 31, 1956.
	7½	November 1, 1956, to December 31, 1969.
	8	After December 31, 1969.
Law enforcement officer for law enforcement service and firefighter for firefighter service.	2½	August 1, 1920, to June 30, 1926.
	3½	July 1, 1926, to June 30, 1942.
	5	July 1, 1942, to June 30, 1948.
	6	July 1, 1948, to October 31, 1956.
	6½	November 1, 1956, to December 31, 1969.
	7	January 1, 1970, to December 31, 1974.
	7½	After December 31, 1974.

(d) Each employee or Member who has received a refund of retirement deductions under this or any other retirement system established for employees of the Government covering service for which he may be allowed credit under this subchapter may deposit the amount received, with interest. Credit may not be allowed for the service covered by the refund until the deposit is made.

(e) Interest under subsection (c) or (d) of this section is computed from the mid-point of each service period included in the computation, or from the date refund was paid, to the date of deposit or commencing date of annuity, whichever is earlier. The interest is computed at the rate of 4 percent a year to December 31, 1947, and 3 percent a year thereafter compounded annually. The deposit may be made in one or more installments. Interest may not be charged for a period of separation from the service which began before October 1, 1956.

(f) Under such regulations as the Civil Service Commission may prescribe, amounts deducted under subsection (a) of this section and deposited under subsections (c) and (d) of this section shall be entered on individual retirement records.

(g) Deposit may not be required for—

(1) service before August 1, 1920;

(2) military service;

(3) service for the Panama Railroad Company before January 1, 1924;

(4) service performed before January 1, 1950, by natives of the Pribilof Islands in the taking and curing of fur seal skins and other activities in connection with the administration of the Pribilof Islands; or

(5) days of unused sick leave credited under section 8339(m) of this title.

(h) For the purpose of survivor annuity, deposits authorized by subsections (c) and (d) of this section may also be made by the survivor of an employee or Member.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 569; Pub. L. 90-83, § 1(74), Sept. 11, 1967, 81 Stat. 214; Pub. L. 90-486, § 5(b), Aug. 13, 1968, 82 Stat. 757; Pub. L. 91-93, title I, § 102(a), title II, § 202, Oct. 20, 1969, 83 Stat. 136, 138; Pub. L. 92-297, § 7(2), May 16, 1972, 86 Stat. 144; Pub. L. 93-350, § 3, July 12, 1974, 88 Stat. 356; Pub. L. 94-126, §§ 1(a), 2(a), Nov. 12, 1975, 89 Stat. 679.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	2 U.S.C. 129	July 1, 1957, Pub. L. 85-75, § 101 (proviso on p. 248), 71 Stat. 248.
....	5 U.S.C. 2254	July 31, 1956, ch. 804, § 401 "Sec. 4", 70 Stat. 747. June 29, 1957, Pub. L. 85-65, § 1, 71 Stat. 209. May 27, 1958, Pub. L. 85-426, § 214(b) (words before comma), 72 Stat. 143. Aug. 27, 1958, Pub. L. 85-772, § 1(d), 72 Stat. 930.

In subsection (a), the words "From and after the first day of the first pay period which begins on or after the effective date of the Civil Service Retirement Act Amendments of 1956" and "From and after the first day of the first pay period which begins after June 30, 1957" in former section 2254 are omitted as executed. The words "on and after July 1, 1957" in former section 129 of title 2 are omitted as executed.

In subsection (b), the word "rule" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8334(g)(4)	5 App.: 2254(g)	Nov. 2, 1966, Pub. L. 89-702, § 208(c), 80 Stat. 1096.

AMENDMENTS

1975—Subsec. (c), Pub. L. 94-126, § 1(a), struck out last sentence requiring that the deposit, with respect to a period of service referred to in section 8332(b)(6) of this title performed before Jan. 1, 1969, shall be an amount equal to 55 percent of a deposit computed in accordance with such provisions.

Subsec. (g)(5). Pub. L. 94-126, § 2(a), substituted reference to "section 8339(m) of this title" for "section 8339(n) of this title".

1974—Subsec. (a)(1). Pub. L. 93-350, § 3(a), inserted "a law enforcement officer, and a firefighter," following "Congressional employee,".

Subsec. (c). Pub. L. 93-350, § 3(b), added schedule for law enforcement officer for law enforcement service and firefighter for firefighter service.

1972—Subsec. (g)(5). Pub. L. 92-297 substituted "section 8339(n)" for "section 8339(m)".

1969—Subsec. (a)(1). Pub. L. 91-93, § 102(a)(1), designated the first and second sentences of subsec. (a) as subsec. (a)(1), increasing by one-half percent the deduction from the basic pay of an employee and a Member to 7 and 8 percent, respectively, and providing for a 7½ percent deduction from basic pay of a Congressional employee.

Subsec. (a)(2). Pub. L. 91-93, § 102(a)(1), designated the third and fourth sentences of subsec. (a) as subsec. (a)(2), deleting "under this section" following "Member".

Subsec. (c). Pub. L. 91-93, § 102(a)(2), substituted service period Nov. 1, 1956, to Dec. 31, 1969, for prior service period after Oct. 31, 1956, for deductions of 6½ percent of basic pay of an employee, inserted provision for 7 percent deduction from basic pay of an employee for service period after Dec. 31, 1969, inserted percentage of basic pay and service period provisions for Member or employee for Congressional employee service, substituted service period Nov. 1, 1956; to Dec. 31, 1969, for prior service period after Oct. 31, 1956, for deduction of 7½ percent of basic pay of Member for Member service, inserted provision for 8 percent deduction from basic pay of Member for Member service after Dec. 31, 1969, and added provision for amount of deposit for period of service performed before Jan. 1, 1969.

Subsec. (g)(5). Pub. L. 91-93, § 202, added subsec. (g)(5).

1968—Subsec. (c). Pub. L. 90-486 added provisions that the deposit with respect to a period of service referred to in section 8332(b)(6) of this title which was performed prior to the specified effective date shall be an amount equal to 55 percent of a deposit computed in accordance with such provisions.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 3 of Pub. L. 94-126 provided that: "The amendments made by the first section of this Act [to this section and sections 8339 and 8345 of this title], shall become effective as of January 1, 1969, except that such amendments shall not apply to a person who, on the date of enactment of this Act [Nov. 12, 1975], is receiving or is entitled to receive benefits under any retirement system established by the United States or any instrumentality thereof, unless such person requests, in writing, the office which administers his retirement system to apply such amendments to him. Any additional benefits payable pursuant to such a written request shall commence on the first day of the month [December] following the date of the enactment of this Act [Nov. 12, 1975]."

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-350 effective at the beginning of the first applicable pay period which begins after Dec. 31, 1974, see section 7 of Pub. L. 93-350, set out as a note under section 3307 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 102(b) of Pub. L. 91-93 provided that: "The amendment made by subsection (a)(1) of this section [to subsec. (a) of this section] shall become effective at the beginning of the first applicable pay period beginning after December 31, 1969."

Subsec. (g)(5) of this section inapplicable in cases of persons retired or otherwise separated prior to Oct. 20, 1969; their rights and of their survivors continued as if such subsec. (g)(5) had not been enacted, see section 207(a) of Pub. L. 91-93, set out as a note under section 8331 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-486 effective Jan. 1, 1969, except that no deductions or withholding from salary which result therefrom shall commence before the first day of the first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90-486, set out as a note under section 709 of Title 32, National Guard.

NATIONAL GUARD TECHNICIANS

Amendment by Pub. L. 90-486 not applicable to persons employed prior to Jan. 1, 1969, whose employment was covered by the civil service retirement provisions of section 8331 et seq. of this title, see section 5(d) of Pub. L. 90-486, set out as a note under section 709 of Title 32, National Guard.

CROSS REFERENCES

Civil Service Retirement and Disability Fund as trust fund, see section 725s of Title 31, Money and Finance.

Contributions by Post Office Department in compliance with this section as costs for purpose of establishing postal rates, see section 2306 of Title 39, Postal Service.

Section Referred to in Other Sections

This section is referred to in sections 8331, 8332, 8333, 8339, 8342, 8344 of this title; title 12 sections 1723a, 2227; title 28 sections 611, 627, 634; title 40 section 881.

Section Referred to in D.C. Code

This section is referred to in sections 11-1564, 11-1568, 31-1403 of the District of Columbia Code.

§ 8335. Mandatory separation

(a) Except as otherwise provided by this section, an employee who becomes 70 years of age and completes 15 years of service shall be automatically separated from the service. The separation is effective on the last day of the month in which the employee becomes 70 years of age or completes 15 years of service if then over that age, and pay ends from that day.

(b) The employing office shall notify each employee under its direction of the date of his separation from the service at least 60 days in advance thereof, and subsection (a) of this section does not take effect without the consent of the employee until 60 days after he is so notified.

(c) The President, by Executive order, may exempt an employee from automatic separation under this section when in his judgment the public interest so requires.

(d) The automatic separation provisions of this section do not apply to—

(1) an individual named by a statute providing for the continuance of the individual in the service;

(2) a Member;

(3) a Congressional employee; or

(4) an employee in the judicial branch appointed to hold office for a definite term of years.

(e) This section applies to an employee of The Alaska Railroad in Alaska, and to an employee who is a citizen of the United States employed on the Isthmus of Panama by the Panama Canal Company or the Canal Zone Government, who becomes 62 years of age and completes 15 years of service in Alaska or on the Isthmus of Panama.

(f) An air traffic controller shall be separated from the service on the last day of the month in which he becomes 56 years of age. The Secretary of Transportation, under such regulations as he may prescribe, may exempt a controller having exceptional skills and experience as a controller from the automatic separation provisions of this subsection until that controller becomes 61 years of age. The Secretary of Transportation shall notify the controller in writing of the date of separation at least 60 days before that date. Action to separate the controller is not effective, without the consent of the controller, until the last day of the month in which the 60-day notice expires.

(g) A law enforcement officer or a firefighter who is otherwise eligible for immediate retirement under section 8336(c) of this title shall be separated from the service on the last day of the month in which he becomes 55 years of age or completes 20 years of service if then over that age. The head of the agency, when in his judgment the public interest so requires, may exempt such an employee from automatic separation under this subsection until that employee becomes 60 years of age. The employing office shall notify the employee in writing of the date of separation at least 60 days in advance thereof. Action to separate the employee is not effective, without the consent of the employee, until the last day of the month in which the 60-day notice expires.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 571; Pub. L. 92-297, § 4, May 16, 1972, 86 Stat. 144; Pub. L. 93-350, § 4, July 12, 1974, 88 Stat. 356.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2255	July 31, 1956, ch. 804, § 401 "Sec. 5", 70 Stat. 748. Feb. 7, 1964, Pub. L. 88-267, § 1 (less (a)-(c)), 78 Stat. 9.

Standard changes are made to conform with the definitions applicable and style of this title as outlined in the preface to the report.

Amendments

1974—Subsec. (g). Pub. L. 93-350 added subsec. (g).

1972—Subsec. (f). Pub. L. 92-297 added subsec. (f).

Effective Date of 1974 Amendment

Amendment by Pub. L. 93-350 effective Jan. 1, 1978, see section 7 of Pub. L. 93-350, set out as a note under section 3307 of this title.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

Nonapplicability of Subsec. (f) to Air Traffic Controllers Appointed Before May 16, 1972

Section 8 of Pub. L. 92-297 provided that: "Section 8335(f) of title 5, United States Code, as added by this Act, does not apply to a person appointed as an air traffic controller by the Department of Transportation before the date of enactment of this Act [May 16, 1972]."

Cross References

Automatic separations, see section 3323 of this title.

Section Referred to in Other Sections

This section is referred to in section 8339 of this title; title 26 section 7447.

§ 8336. Immediate retirement

(a) An employee who is separated from the service after becoming 55 years of age and completing 30 years of service is entitled to an annuity.

(b) An employee who is separated from the service after becoming 60 years of age and completing 20 years of service is entitled to an annuity.

(c) An employee who is separated from the service after becoming 50 years of age and completing 20 years of service as a law enforcement officer or firefighter, or any combination of such service totaling at least 20 years, is entitled to an annuity.

(d) An employee who is separated from the service—

(1) involuntarily, except by removal for cause on charges of misconduct or delinquency; or

(2) voluntarily, during a period when the agency in which he is employed is undergoing a major reduction in force, as determined by the Commission, and who is serving in such geographic areas as may be designated by the Commission;

after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.

(e) An employee who is voluntarily or involuntarily separated from the service, except by removal for cause on charges of misconduct or delinquency, after completing 25 years of service as an air traffic controller or after becoming 50 years of age and completing 20 years of service as an air traffic controller, is entitled to an annuity.

(f) An employee who is separated from the service after becoming 62 years of age and completing 5 years of service is entitled to an annuity.

(g) A Member who is separated from the service after becoming 62 years of age and completing 5 years of civilian service or after becoming 60 years of age and completing 10 years of Member service is entitled to an annuity. A Member who is separated from the service after becoming 55 years of age (but before becoming 60 years of age) and completing 30 years of service is entitled to a reduced annuity. A Member who is separated from the service, except by resignation or expulsion, after completing 25 years of service or after becoming 50 years of age and (1) completing 20 years of service or (2) serving in 9 Congresses is entitled to an annuity.

(h) An annuity or reduced annuity authorized by this section is computed under section 8339 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 571; Pub. L. 90-83, § 1(75), Sept. 11, 1967, 81 Stat. 214; Pub. L. 92-297, § 5, May 16, 1972, 86 Stat. 144; Pub. L. 92-382, Aug. 14, 1972, 86 Stat. 539; Pub. L. 93-39, June 12, 1973, 87 Stat. 73; Pub. L. 93-350, § 5, July 12, 1974, 88 Stat. 356; Pub. L. 94-183, § 2(40), (41), Dec. 31, 1975, 89 Stat. 1059.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2256 (less last sentence in (f)).	July 31, 1956, ch. 804, § 401 "Sec. 6 (less last sentence in (f))", 70 Stat. 749. July 7, 1960, Pub. L. 86-604, § 1(b), 74 Stat. 358. July 12, 1960, Pub. L. 86-622, § 3(b), 74 Stat. 410.

Standard changes are made to conform with the definition applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8336(a)	5 App.: 2256(a)	July 18, 1966, Pub. L. 89-504, § 504, 80 Stat. 301.
8336(b)	5 App.: 2256(b)	

In subsections (a) and (b), the words "is entitled to" are substituted for "shall * * * be paid". The words "computed as provided in section 9" are omitted as unnecessary in view of 5 U.S.C. 8339.

AMENDMENTS

1975—Subsec. (d). Pub. L. 94-183, § 2(40), substituted "an" for "a reduced" following "is entitled to".

Subsec. (g). Pub. L. 94-183, § 2(41), substituted "an" for "a reduced" following "is entitled to".

1974—Subsec. (c). Pub. L. 93-350 substituted provisions granting annuity entitlement to employees separated from the service after becoming 50 years of age and completing 20 years of service as a law enforcement officer or firefighter or any combination of such service totaling at least 20 years for provisions requiring the head of the employing agency to recommend, and the Civil Service Commission to approve, the retirement of an otherwise eligible employee requiring the agency and the Commission to consider the degree of hazard the employee was subjected to in the performance of his duties, and defining the term "detention" as used in the description the activities of qualifying employees.

1973—Subsec. (d). Pub. L. 93-39 reenacted existing provisions, designated part of such provisions as item (1) and added item (2).

1972—Subsec. (c). Pub. L. 92-382 added employees performing work directly connected with the control and extinguishment of fires or the maintenance and use of firefighting apparatus and equipment for the purpose of retirement benefits.

Subsec. (e). Pub. L. 92-297, § 5(1), (2) added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 92-297, § 5(1), redesignated subsec. (e) as (f). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 92-297, § 5(1) redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 92-297, § 5(1) redesignated subsec. (g) as (h).

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-350 effective July 12, 1974, see section 7 of Pub. L. 93-350, set out as a note under section 3307 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

TRANSFER OF FUNCTIONS

All functions of Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service, transferred to Secretary of Health, Education, and Welfare by 1966 Reorg. Plan No. 3, 31 F.R. 8855, 80 Stat. 1610, effective June 25, 1966, set out in the Appendix to this title.

CROSS REFERENCES

Computation of annuity of employees retiring under subsec. (c) of this section, see section 8339 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 3381, 3382, 8335, 8339 of this title.

§ 8337. Disability retirement

(a) An employee who completes 5 years of civilian service and is found by the Civil Service

Commission to have become disabled shall be retired on his own application or on application by his agency. A Member who completes 5 years of Member service and is found by the Commission to have become disabled shall be retired on his own application. An annuity authorized by this section is computed under section 8339 of this title.

(b) A claim may be allowed under this section only if the application is filed with the Commission before the employee or Member is separated from the service or within 1 year thereafter. This time limitation may be waived by the Commission for an employee or Member who at the date of separation from service or within 1 year thereafter is mentally incompetent, if the application is filed with the Commission within 1 year from the date of restoration of the employee or Member to competency or the appointment of a fiduciary, whichever is earlier.

(c) An annuitant receiving disability retirement annuity from the Fund shall be examined under the direction of the Commission—

(1) at the end of 1 year from the date of the disability retirement; and

(2) annually thereafter until he becomes 60 years of age;

unless his disability is permanent in character. If the annuitant fails to submit to examination as required by this section, payment of the annuity shall be suspended until continuance of the disability is satisfactorily established.

(d) If an annuitant receiving disability retirement annuity from the Fund, before becoming 60 years of age, recovers from his disability, payment of the annuity terminates on reemployment by the Government or 1 year after the date of the medical examination showing the recovery, whichever is earlier. If an annuitant receiving disability retirement annuity from the Fund, before becoming 60 years of age, is restored to an earning capacity fairly comparable to the current rate of pay of the position occupied at the time of retirement, payment of the annuity terminates on reemployment by the Government or 1 year after the end of the calendar year in which earning capacity is so restored, whichever is earlier. Earning capacity is deemed restored if in each of 2 succeeding calendar years the income of the annuitant from wages or self-employment or both equals at least 80 percent of the current rate of pay of the position occupied immediately before retirement.

(e) If an annuitant whose annuity is terminated under subsection (d) of this section is not reemployed in a position in which he is subject to this subchapter, he is deemed, except for service credit, to have been involuntarily separated from the service for the purpose of this subchapter as of the date of termination of the disability annuity, and after that termination is entitled to annuity under the applicable provisions of this subchapter. If an annuitant whose annuity is heretofore or hereafter terminated because of an earning capacity provision of this subchapter or an earlier statute—

(1) is not reemployed in a position within the purview of this subchapter; and

(2) has not recovered from the disability for which he was retired;

his annuity shall be restored at the same rate effective the first of the year following any calendar year in which his income from wages or self-employment or both is less than 80 percent of the current rate of pay of the position occupied immediately before retirement. If an annuitant whose annuity is heretofore or hereafter terminated because of a medical finding that he has recovered from disability is not reemployed in a position in which he is subject to this subchapter, his annuity shall be restored at the same rate effective from the date of medical examination showing a recurrence of the disability. The second and third sentences of this subsection do not apply to an individual who has become 62 years of age and is receiving or is eligible to receive annuity under the first sentence of this subsection.

(f) An individual is not entitled to receive an annuity under this subchapter and compensation for injury or disability to himself under subchapter I of chapter 81 of this title covering the same period of time. This provision does not bar the right of a claimant to the greater benefit conferred by either subchapter for any part of the same period of time. Neither this provision nor any provision of subchapter I of chapter 81 of this title denies to an individual an annuity accruing to him under this subchapter on account of service performed by him, or denies any concurrent benefit to him under subchapter I of chapter 81 of this title on account of the death of another individual.

(g) The right of an individual entitled to an annuity under this subchapter is not affected because he has received a lump-sum payment for compensation under section 8135 of this title. However, if the annuity is payable on account of the same disability for which compensation under section 8135 of this title has been paid, so much of the compensation as has been paid for a period extended beyond the date the annuity becomes effective, as determined by the Department of Labor, shall be refunded to that Department to be covered into the Employees' Compensation Fund. Before the individual may receive the annuity he shall—

(1) refund to the Department of Labor the amount representing the commuted compensation payments for the extended period; or

(2) authorize the deduction of that amount from the annuity payable to him under this subchapter, which amount shall be transmitted to the Department of Labor for reimbursement to the Employees' Compensation Fund.

Deductions from the annuity may be made from accrued and accruing payments. When the Department of Labor finds that the financial circumstances of the annuitant warrant deferred refunding, deductions from the annuity may be prorated against and paid from accruing payments in such manner as that Department determines.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 572; Pub. L. 90-83, § 1(76), Sept. 11, 1967, 81 Stat. 214.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2257	July 31, 1956, ch. 804, § 401 "Sec. 7", 70 Stat. 750. Oct. 4, 1961, Pub. L. 87-350, § 4(a), 75 Stat. 771.

In subsection (c), the words "receiving disability retirement annuity from the Fund" are coextensive with and substituted for "retired under this section or under section 6 of the Act of May 29, 1930, as amended".

In subsection (g), the words "Notwithstanding any provision of law to the contrary" are omitted as unnecessary. The words "Employees' Compensation Fund" are substituted for "Federal Employees' Compensation Fund" to conform to the title of that Fund as set forth in section 8147.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

This section amends 5 U.S.C. 8337(e) for consistency within the subchapter and to reflect that it is the individual, rather than the position, that is subject to the subchapter.

Cross References

Computation of annuities for Members and employees retiring under this section, see section 8339 of this title.

Disabilities of personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs commissioned, appointed or enlisted in the Coast Guard shall be deemed to have been incurred incident to Coast Guard service, see section 433 of Title 14, Coast Guard.

Section Referred to in Other Sections

This section is referred to in section 8339 of this title.

§ 8338. Deferred retirement

(a) An employee who is separated from the service or transferred to a position in which he does not continue subject to this subchapter after completing 5 years of civilian service is entitled to an annuity beginning at the age of 62 years.

(b) A Member who, after December 31, 1955, is separated from the service as a Member after completing 5 years of civilian service is entitled to an annuity beginning at the age of 62 years. A Member who is separated from the service after completing 10 or more years of Member service is entitled to an annuity beginning at the age of 60 years. A Member who is separated from the service after completing 20 or more years of service, including 10 or more years of Member service, is entitled to a reduced annuity beginning at the age of 50 years.

(c) An annuity or reduced annuity authorized by this section is computed under section 8339 of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 574; Pub. L. 90-83, § 1(77), Sept. 11, 1967, 81 Stat. 214.)

Historical and Revision Notes

1966 Act

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2258	July 31, 1956, ch. 804, § 401 "Sec. 8", 70 Stat. 751. July 7, 1960, Pub. L. 86-604, § 1(c), 74 Stat. 358. July 12, 1960, Pub. L. 86-622, § 2(a), 74 Stat. 410.

In subsection (b), the words "after December 31, 1955" are substituted for "on or after January 1, 1956". The word "hereafter" is omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

This section amends 5 U.S.C. 8338(a) for consistency within the subchapter and to reflect that it is the individual, rather than the position, that is subject to the subchapter.

Savings Provisions Deferred Annuities Under Laws Repealed by Pub. L. 90-83

Pub. L. 90-83, § 10(a), Sept. 11, 1967, 81 Stat. 222, provided that: "The right to a deferred annuity on satisfaction of the conditions attached thereto is continued notwithstanding the repeal by this Act of the law conferring the right."

Section Referred to in Other Sections

This section is referred to in sections 8339, 8340 of this title.

§ 8339. Computation of annuity

(a) Except as otherwise provided by this section, the annuity of an employee retiring under this subchapter is—

(1) 1½ percent of his average pay multiplied by so much of his total service as does not exceed 5 years; plus

(2) 1¾ percent of his average pay multiplied by so much of his total service as exceeds 5 years but does not exceed 10 years; plus

(3) 2 percent of his average pay multiplied by so much of his total service as exceeds 10 years.

However, when it results in a larger annuity, 1 percent of his average pay plus $25 is substituted for the percentage specified by paragraph (1), (2), or (3) of this subsection, or any combination thereof.

(b) The annuity of a Congressional employee, or former Congressional employee, retiring under this subchapter is computed under subsection (a) of this section, except, if he has had—

(1) at least 5 years' service as a Congressional employee or Member or any combination thereof; and

(2) deductions withheld from his pay or has made deposit covering his last 5 years of civilian service;

his annuity is computed with respect to his service as a Congressional employee, his military service not exceeding 5 years, and any Member service, by multiplying 2½ percent of his average pay by the years of that service.

(c) The annuity of a Member, or former Member with title to Member annuity, retiring under this subchapter is computed under sub-

section (a) of this section, except, if he has had at least 5 years' service as a Member or Congressional employee or any combination thereof, his annuity is computed with respect to—

(1) his service as a Member and so much of his military service as is creditable for the purpose of this paragraph; and

(2) his Congressional employee service; by multiplying 2½ percent of his average pay by the years of that service.

(d) The annuity of an employee retiring under section 8335(g) or 8336(c) of this title is—

(A) 2½ percent of his average pay multiplied by so much of his total service as does not exceed 20 years; plus

(B) 2 percent of his average pay multiplied by so much of his total service as exceeds 20 years.

(e) The annuity of an employee retiring under section 8336(e) of this title is computed under subsection (a) of this section. That annuity may not be less than 50 percent of the average pay of the employee.

(f) The annuity computed under subsections (a)-(e) of this section may not exceed 80 percent of—

(1) the average pay of the employee; or

(2) the greatest of—

(A) the final basic pay of the Member;

(B) the average pay of the Member; or

(C) the final basic pay of the appointive position of a former Member who elects to have his annuity computed or recomputed under section 8344(d)(1) of this title.

(g) The annuity of an employee or Member retiring under section 8337 of this title is at least the smaller of—

(1) 40 percent of his average pay; or

(2) the sum obtained under subsections (a)-(c) of this section after increasing his service of the type last performed by the period elapsing between the date of separation and the date he becomes 60 years of age.

(h) The annuity computed under subsections (a), (b), and (f) of this section for an employee retiring under section 8336(d) of this title is reduced by ⅙ of 1 percent for each full month the employee is under 55 years of age at the date of separation. The annuity computed under subsections (c) and (f) of this section for a Member retiring under the second or third sentence of section 8336(g) of this title or the third sentence of section 8338(b) of this title is reduced by 1/12 of 1 percent for each full month not in excess of 60 months, and ⅙ of 1 percent for each full month in excess of 60 months the Member is under 60 years of age at the date of separation.

(i) The annuity computed under subsections (a)-(h) of this section is reduced by 10 percent of a deposit described by section 8334(c) of this title remaining unpaid, unless the employee or Member elects to eliminate the service involved for the purpose of annuity computation.

(j) The annuity computed under subsections (a)-(i) of this section for a married employee or Member retiring under this subchapter, or any portion of that annuity designated in writing for the purpose of section 8341(b) of this title by the employee or Member at the time of retirement, is reduced by 2½ percent of so much thereof as does not exceed $3,600 and by 10 percent of so much thereof as exceeds $3,600, unless the employee or Member notifies the Civil Service Commission in writing at the time of retirement that he does not desire any spouse surviving him to receive an annuity under section 8341(b) of this title. An annuity which is reduced under this subsection or any similar prior provision of law shall, for each full month during which a retired employee or Member is not married, be recomputed and paid as if the annuity had not been so reduced. Upon remarriage of the retired employee or Member, the annuity shall be reduced by the same percentage reductions which were in effect at the time of retirement.

(k)(1) At the time of retiring under section 8336 or 8338 of this title, an unmarried employee or Member who is found to be in good health by the Commission may elect a reduced annuity instead of an annuity computed under subsections (a)-(i) of this section and name in writing an individual having an insurable interest in the employee or Member to receive an annuity under section 8341(c) of this title after the death of the retired employee or Member. The annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual named is younger than the retiring employee or Member. However, the total reduction may not exceed 40 percent.

(2) An employee or Member, who is unmarried at the time of retiring under a provision of law which permits election of a reduced annuity with a survivor annuity payable to his spouse and who later marries, may irrevocably elect, in a signed writing received in the Commission within 1 year after he marries, a reduction in his current annuity as provided in subsection (j) of this section. His reduced annuity is effective the first day of the month after his election is received in the Commission. The election voids prospectively any election previously made under paragraph (1) of this subsection.

(*l*) The annuity computed under subsections (a)-(k) of this section for an employee who is a citizen of the United States is increased by $36 for each year of service in the employ of—

(1) the Alaska Engineering Commission, or The Alaska Railroad, in Alaska between March 12, 1914, and July 1, 1923; or

(2) the Isthmian Canal Commission, or the Panama Railroad Company, on the Isthmus of Panama between May 4, 1904, and April 1, 1914.

(m) In computing any annuity under subsections (a)-(e) of this section, the total service of an employee who retires on an immediate annuity or dies leaving a survivor or survivors entitled to annuity includes, without regard to the limitations imposed by subsection (f) of this section, the days of unused sick leave to his credit under a formal leave system, except that these days will not be counted in determining average pay or annuity eligible under this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 574; Pub. L. 90-83, § 1(78), Sept. 11, 1967, 81 Stat. 214; Pub. L. 90-206, title II, § 224(b), Dec. 16, 1967, 81 Stat. 642; Pub. L. 90-486, § 5(c), Aug. 13, 1968; 82 Stat. 757; Pub. L. 91-93, title II, § 203, Oct. 20, 1969, 83 Stat. 139; Pub. L. 91-658, § 2, Jan. 8, 1971, 84 Stat. 1961; Pub. L. 92-297, §§ 6, 7(3), May 16, 1972, 86 Stat. 144; Pub. L. 93-260, § 2(a), Apr. 9, 1974, 88 Stat. 76; Pub. L. 93-350, § 6, July 12, 1974, 88 Stat. 356; Pub. L. 93-474, § 1, Oct. 26, 1974, 88 Stat. 1438; Pub. L. 94-126, § 1(b), Nov. 12, 1975, 89 Stat. 679; Pub. L. 94-397, § 1(d), Sept. 3, 1976, 90 Stat. 1203.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2259	July 31, 1956, ch. 804, § 401 "Sec. 9", 70 Stat. 752. July 7, 1960, Pub. L. 86-604, § 1(d), (e), 74 Stat. 358. July 12, 1960, Pub. L. 86-622, § 2(b), 74 Stat. 410. Oct. 4, 1961, Pub. L. 87-350, § 6, 75 Stat. 772. Oct. 11, 1962, Pub. L. 87-793, § 1103(a), 76 Stat. 870.

The section is reorganized to eliminate repetition.

In subsection (f)(2), the words "service of the type last performed" are substituted for "total service" in former section 2259(a), "service as a Congressional employee" in former section 2259(b), and "Member service" in former section 2259(c).

In subsection (i), the words "by the employee or Member at the time of retirement" are added on authority of former section 2260(a)(1), which is carried into section 8341(b).

In subsection (j), the words "an annuity computed as provided in section 2259 of this title" and "an annuity so computed" are omitted as unnecessary as former sections 2256 and 2258, which are carried into this title as sections 8336 and 8338, respectively, expressly require that the annuities authorized thereby must be computed under former section 2259, which is carried into this section.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8339(g)	5 App.: 2259 (d)	July 18, 1966, Pub. L. 89-504, § 505, 80 Stat. 301.

AMENDMENTS

1976—Subsec. (f)(2)(C). Pub. L. 94-397 substituted "8344(d)(1)" for "8344(b)(1)".

1975—Subsec. (m). Pub. L. 94-126 struck out subsec. (m) which required that 45 per centum of each year, or fraction thereof, of service referred to in section 8332(b)(6) which was performed prior to the effective date of the National Guard Technicians Act of 1968, be disregarded in determining service for the purpose of computing an annuity under each paragraph of this section, and redesignated former subsec. (n) as (m).

Subsec. (n). Pub. L. 94-126 redesignated former subsec. (n) as (m).

1974—Subsec. (d). Pub. L. 93-350 inserted reference to employees retiring under section 8335(g) of this title and substituted a schedule of 2½ percent of his average pay multiplied by so much of his total service as does not exceed 20 years plus 2 percent of his average pay multiplied by so much of his total service as exceeds 20 years for a schedule of 2 percent of his average pay multiplied by his total service.

Subsec. (f)(2). Pub. L. 93-260 substituted "greatest" for "greater", redesignated cl. (B) as cl. (C), and added cl. (B).

Subsec. (j). Pub. L. 93-474 added provision that an annuity reduced under this subsection or any similar provision of law shall be recomputed and paid as if the annuity had not been so reduced for each full month during which a retired employee or member is not married and that upon marriage the annuity shall be reduced by the same percentage reductions which were in effect at the time of retirement.

1972—Subsec. (e). Pub. L. 92-297, § 6(1), (2), added subsec. (e) and redesignated former subsec. (e) as (f).

Subsec. (f). Pub. L. 92-297, §§ 6(1), 7(3)(A), redesignated former subsec. (e) as (f) and in subsec. (f) as so redesignated, substituted references to subsecs. (a)-(e) for references to subsecs. (a)-(d). Former subsec. (f) redesignated (g).

Subsec. (g). Pub. L. 92-297, § 6(1), redesignated subsec. (f) as (g). Former subsec. (g) redesignated (h).

Subsec. (h). Pub. L. 92-297, §§ 6(1), 7(3)(B), redesignated subsec. (g) as (h) and in subsec. (h) as so redesignated, substituted "subsections (a), (b), and (f)", "subsections (c) and (f)", and "section 8336(g)" for "subsections (a), (b), and (e)", "subsections (c) and (e)", and "section 8336(f)" respectively. Former subsec. (h) redesignated (i).

Subsec. (i). Pub. L. 92-297, §§ 6(1), 7(3)(C), redesignated former subsec. (h) as (i), and in subsec. (i) as so redesignated, substituted reference to subsections (a)-(h) for reference to subsections (a)-(g). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 92-297, §§ 6(1), 7(3)(D), redesignated former subsec. (i) as (j), and in subsec. (j) as so redesignated, substituted reference to subsections (a) to (i) for reference to subsections (a) to (h). Former subsec. (j) redesignated (k).

Subsec. (k). Pub. L. 92-297, §§ 6(1), 7(3)(E), redesignated former subsec. (j) as (k), and in subsec. (k) as so redesignated, substituted "subsections (a)-(i)" and "subsection (j)" for "subsections (a)-(h)" and "subsection (i)", respectively. Former subsec. (k) redesignated (*l*).

Subsec. (*l*). Pub. L. 92-297, §§ 6(1), 7(3)(F), redesignated former subsec. (k) as (*l*), and in subsec. (*l*) as so redesignated, substituted "subsections (a)-(e)" and "subsections (a)-(j)". Former subsec. (*l*) redesignated (m).

Subsec. (m). Pub. L. 92-297, § 6(1) redesignated former subsec. (*l*) as (m). Former subsec. (m) redesignated (n).

Subsec. (n). Pub. L. 92-297, §§ 6(1), 7(3)(G), redesignated former subsec. (m) as (n) and in subsec. (n) as so redesignated, substituted "subsections (a)-(e)" and "subsection (f)" for "subsections (a)-(d)" and "subsection (e)", respectively.

1971—Subsec. (i). Pub. L. 91-658, § 2(a), substituted "any spouse surviving him" for "his spouse".

Subsec. (j). Pub. L. 91-658, § 2(b), designated existing provisions as par. (1) and added par. (2).

1969—Subsec. (b). Pub. L. 91-93, § 203(1), substituted "his service as a Congressional employee, his military service not exceeding 5 years," for "so much of his service as a Congressional employee and his military service as does not exceed a total of 15 years".

Subsec. (c)(2). Pub. L. 91-93, § 203(2), struck out "so much of" and "as does not exceed 15 years" preceding and following "his Congressional employee service".

Subsec. (f). Pub. L. 91-93, § 203(3), struck out the last sentence providing "However, this subsection does not increase the annuity of a survivor".

Subsec. (i). Pub. L. 91-93, § 203(4), struck out "(excluding any increase because of retirement under section 8337 of this title)" following "subsections (a)-(h) of this section".

Subsec. (m). Pub. L. 91-93, § 203(5), added subsec. (m).

1968—Subsec. (*l*). Pub. L. 90-486 added subsec. (*l*).

1967—Subsec. (e)(2). Pub. L. 90-206 added provision for the use of the final basic pay of the appointive position of a former Member who elects to have his annuity computed or recomputed under section 8344(b)(1) of this title inmaking the determination of the maximum allowable annuity.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-397 effective on Oct. 1, 1976, and applicable to annuitants serving in appointive or elective positions on and after such date, see section 2 of Pub. L. 94-397, set out as a note under section 8344 of this title.

Effective Date of 1975 Amendment

Amendment by Pub. L. 94-126 effective as of Jan. 1, 1969, applicable to a person who, on Nov. 12, 1975, is receiving or is entitled to receive benefits under any Federal retirement system and requests in writing the application of the amendment to him by the office administering his retirement system, and additional benefits to commence Dec. 1, 1975, see section 3 of Pub. L. 94-126, set out as a note under section 8334 of this title.

Effective Date of 1974 Amendments

Section 2 of Pub. L. 93-474 provided that: "The amendment made by this Act [amending subsec. (j) of this section] shall apply to annuities which commence before, on, or after the date of enactment of this Act [Oct. 26, 1974], but no increase in annuity shall be paid for any period prior to the first day of the first month which begins on or after the date of enactment of this Act."

Amendment by Pub. L. 93-350 effective on July 12, 1974, see section 7 of Pub. L. 93-350, set out as a note under section 3307 of this title.

Section 2(b) of Pub. L. 93-260 provided that: "The amendments made by subsection (a) of this section [amending subsec. (f)(2) of this section] shall apply to annuities paid for months beginning after the date of enactment of this Act [Apr. 9, 1974]."

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

Effective Date of 1971 Amendment

Section 5(b) of Pub. L. 91-658 provided that: "The amendments made by section 2(a) and 3 of this Act [to subsec. (i) of this section and section 8341(a), (b), (d), and (e) of this title] shall not apply in the cases of employees, Members, or annuitants who died before the date of enactment of this Act [Jan. 8, 1971]. The rights of such persons and their survivors shall continue in the same manner and to the same extent as if such amendments [to subsec. (i) of this section and section 8341(a), (b), (d) and (e) of this title] had not been enacted."

Section 5(c) of Pub. L. 91-658 provided that: "The amendments made by section 2(b) of this Act [to subsec. (j) of this section] shall apply to an annuitant who was unmarried at the time of retiring, but who later married, only if the election is made within 1 year after the date of enactment of this Act [Jan. 8, 1971]."

Effective Date of 1969 Amendment

Amendment of subsecs. (b), (c)(2), (f), and (i) and enactment of subsec. (m), by Pub. L. 91-93 inapplicable in cases of persons retired or otherwise separated prior to Oct. 20, 1969; their rights and of their survivors continued as if such subsections had not been amended, see section 207(a) of Pub. L. 91-93, set out as a note under section 8331 of this title.

Effective Date of 1968 Amendment

Amendment by Pub. L. 90-486 effective Jan. 1, 1969, except that no deductions or withholding from salary which result therefrom shall commence before the first day of the first pay period that begins on or after Jan. 1, 1968, see section 11 of Pub. L. 90-486, set out as a note under section 709 of Title 32, National Guard.

Effective Date of 1967 Amendment

Amendment by Pub. L. 90-206 effective Dec. 16, 1967, see section 220(a)(1) of Pub. L. 90-206, set out as a note under section 3110 of this title.

Increase in Annuity for Employees or Members Separated from Civil Service Prior To Oct. 20, 1969

Section 2(a) of Pub. L. 93-273, Apr. 26, 1974, 88 Stat. 93, provided that: "An annuity payable from the Civil Service Retirement and Disability Fund to a former employee or Member, which is based on a separation occurring prior to October 20, 1969, is increased by $240."

Section 3 of Pub. L. 93-273 provided in part that annuity increases under this provision shall apply to annuities which commence before, on, or after Apr. 26, 1974, but that no increase in annuity shall be paid for any period prior to the first day of the first month which begins on or after the ninetieth day after Apr. 26, 1974, or the date on which the annuity commences, whichever is later. See section 3 of Pub. L. 93-273, set out as a note under section 8345 of this title.

1970 Increase in Pay Rates of Certain Employees of the Legislative Branch

Adjustment by the President pro tempore of the Senate with respect to the United States Senate, by the Finance Clerk of the House of Representatives with respect to the United States House of Representatives, and by the Architect of the Capitol with respect to the Office of the Architect of the Capitol, effective on the first day of the first pay period which begins on or after Dec. 27, 1969, of the rates of pay of employees of the legislative branch subject to section 214 of Pub. L. 90-206 with certain exceptions, by the amounts of the adjustment for corresponding rates for employees subject to the General Schedule, set out in section 5332 of this title, which had been made by section 2 of Pub. L. 91-231 raising such rates by 6 percent, see Pub. L. 91-231, set out as a note under section 5332 of this title.

1967 Increase in Compensation as Part of Basic Pay Rate

Section 214(d) of Pub. L. 90-206, title II, Dec. 16, 1967, 81 Stat. 636, providing for the inclusion of the additional compensation pursuant to section 214 of Pub. L. 90-206 as part of basic pay for purposes of civil service retirement, was repealed by section 7(a)(4) of Pub. L. 90-623, Oct. 22, 1968, 82 Stat. 1315, except with respect to rights and duties which matured, penalties that were incurred, and proceedings that were begun before Oct. 22, 1968.

1962 Increase in Annuities

Section 1101 of Pub. L. 87-793, Oct. 11, 1962, 76 Stat. 868, provided that:

"(a) The annuity of each person who, on the effective date of this section [Jan. 1, 1963], is receiving or entitled to receive an annuity from the civil service retirement and disability fund shall be increased by 5 per centum of the amount of such annuity.

"(b) The annuity of each person who receives or is entitled to receive an annuity from the civil service retirement and disability fund commencing during the period which begins on the day following the effective date of this section [Jan. 1, 1963] and ends five years after such date, shall be increased in accordance with the following table:

"If the annuity commences between—	*The annuity shall be increased by—*
"January 2, 1963, and December 31, 1963	4 per centum
"January 1, 1964, and December 31, 1964	3 per centum
"January 1, 1965, and December 31, 1965	2 per centum
"January 1, 1966, and December 31, 1966	1 per centum

"(c) In lieu of any other increase provided by this section, the annuity of a survivor of a retired employee or Member of Congress who received an increase under this section shall be increased by a percentage equal to the percentage by which the annuity of such employee or Member was so increased.

"(d) No increase provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

"(e) The limitation reading 'or (3) the sum necessary to increase such annuity, exclusive of annuity purchased by voluntary contributions under the second paragraph of section 10 of this Act, to $2,160' contained in section 8(c)(1) of the Civil Service Retirement Act of May 29, 1930, as amended by the Acts of July 16, 1952 (66 Stat. 722; Public Law 555, Eighty-second Congress), and August 31, 1954 (68 Stat. 1043; Public Law 747, Eighty-third Congress), shall not be effective on or after the effective date of this section [Jan. 1, 1963].

"(f) The limitation contained in the next to the last sentence of section 8(d)(1) of the Civil Service Retirement Act of May 29, 1930, as amended, as enacted by the Act of August 11, 1955 (69 Stat. 692; Public Law 369, Eighty-fourth Congress) shall not be effective on and after the effective date of this section [Jan. 1, 1963].

"(g) The increases provided by this section shall take effect on the effective date of this section [Jan. 1, 1963], except that any increase under subsection (b) or (c) shall take effect on the beginning date of the annuity.

"(h) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar".

Section 1104 of Pub. L. 87-793 provided in part that section 1101 of Pub. L. 87-793 shall take effect on January 1, 1963.

1958 INCREASE IN ANNUITIES

Pub. L. 85-465, June 25, 1958, 72 Stat. 218, as amended by Pub. L. 86-604, § 3(a), July 7, 1960, 74 Stat. 359; Pub. L. 87-114, July 31, 1961, 75 Stat. 241, provided:

"That (a) the annuity of each retired employee or Member of Congress who, on August 1, 1958, is receiving or entitled to receive an annuity from the civil service retirement and disability fund based on service which terminated prior to October 1, 1956, shall be increased by 10 per centum, but no such increase shall exceed $500 per annum.

"(b) The annuity otherwise payable from the civil service retirement and disability fund to—

"(1) each survivor who on August 1, 1958, is receiving or entitled to receive an annuity based on service which terminated prior to October 1, 1956, and

"(2) each survivor of a retired employee or Member of Congress described in subsection (a) of this section,

shall be increased by 10 per centum. No increase provided by this subsection shall exceed $250 per annum.

"(c) No increase provided by this section shall be computed on any additional annuity purchased at retirement by voluntary contributions.

"Sec. 2. The unmarried widow or widower of an employee—

"(1) who had completed at least ten years of service creditable for civil service retirement purposes.

"(2) who (A) died February 29, 1948, or (B), if retired under the Alaska Railroad Retirement Act of June 29, 1936, as amended, or under sections 91 to 107, inclusive, of title 2 of the Canal Zone Code, approved June 19, 1934, as amended, died before April 1, 1948; and

"(3) who was at the time of his death

(A) subject to an Act under which annuities granted before February 20, 1948, were or are now payable from the civil service retirement and disability fund or

(B) retired under such an Act,

shall be entitled to receive an annuity. In order to qualify for such annuity, the widow or widower shall have been married to the employee for at least five years immediately prior to his death and must be not entitled to any other annuity from the civil service retirement and disability fund based on the service of such employee. Such annuity shall be equal to one-half of the annuity which the employee was receiving on the date of his death if retired, or would have been receiving if he had been retired for disability on the date of his death, but shall not exceed $750 per annum and shall not be increased by the provisions of this or any other prior law. Any annuity granted under this section shall cease upon the death or remarriage of the widow or widower.

"Sec. 3. (a) An increase in annuity provided by subsection (a), or clause (1) of subsection (b), of the first section of this Act shall take effect on August 1, 1958. An increase in annuity provided by clause (2) of such subsection (b) shall take effect on the commencing date of the survivor annuity.

"(b) An annuity provided by section 2 of this Act shall commence on August 1, 1958, or on the first day of the month in which application for such annuity is received in the Civil Service Commission, whichever occurs later.

"Sec. 4. Notwithstanding any other provision of law, the annuities and increases in annuities provided by the preceding sections of this Act shall be paid from the civil service retirement and disability fund.

"(c) The monthly installment of each annuity increased or provided by this Act shall be fixed at the nearest dollar.

"Sec. 5. (a) The amendments made by section 401 of the Civil Service Retirement Act Amendments of 1956 (70 Stat. 743-760; 5 U.S.C. 2251-2267) [amending provisions now covered by this subchapter] may apply at the option of any employee who, prior to July 31, 1956, was separated from the service under the automatic separation provisions of the Civil Service Retirement Act [now covered by this subchapter] but whose separation would not have taken effect until after July 30, 1965, if he had been permitted to remain in the service until the expiration of any accumulated or current accrued annual leave to his credit at the time of his separation from the service. Such option shall be exercised by a writing received in the Civil Service Commission before January 1, 1959.

"(b) No increase in annuity provided by this Act or any prior provision of law shall apply in the case of any retired employee who exercises the option permitted by subsection (a) of this section."

1962 AND 1958 INCREASES IN ANNUITIES; CLARIFICATION

Pub. L. 89-17, May 1, 1965, 79 Stat. 109, provided: "That for the purposes of section 1(a) of the Act of June 25, 1958 (Public Law 85-465) [1958 Increase in Annuities note set out under this section], and section 1101(a) of the Act of October 11, 1962 (Public Law 87-793) [1962 Increase in Annuities note set out under this section], the words 'entitled to receive an annuity' shall, from and after the respective effective dates (August 1, 1958, and January 1, 1963) of the annuity increases provided by such Acts, not include any person whose annuity commencing date occurs after the effective date of the annuity increase involved."

PAYMENT OF ANNUITIES TO CERTAIN UNREMARRIED WIDOWS OR WIDOWERS OF EMPLOYEES RETIRED UNDER RAILROAD RETIREMENT ACT OR CANAL ZONE CODE

Section 3(b), (c) of Pub. L. 86-604, July 7, 1960, 74 Stat. 359, made section 4 of act June 25, 1958, set out in the 1958 Increase in Annuities note under this section, applicable to annuities authorized by section 2(2)(B) of act June 25, 1958, and provided that such annuities should commence Aug. 1, 1958, or on the first day of the month in which application therefor was received in the Civil Service Commission, whichever occurred later.

ESTIMATES OF APPROPRIATIONS FOR REIMBURSING FUND FOR AMOUNTS PAID UNDER 1958 INCREASE IN ANNUITIES

Pub. L. 91-93, title I, § 105, Oct. 20, 1969, 83 Stat. 138, repealed part of Pub. L. 87-141, title I, § 101, Aug. 17, 1961, 75 Stat. 345, which required the Civil Service Commission to include annually in its estimates to the Bureau of the Budget, estimates of appropriations necessary to reimburse the civil service retirement and disability fund for amounts paid out of the fund by reason of enactment of Pub. L. 85-465, set out in the 1958 Increase in Annuities note under this section, and the Bureau of the Budget to submit such estimates annually to the Congress.

ANNUITY OF DIRECTOR OF FBI

Pub. L. 86-734, § 5, Sept. 8, 1960, 74 Stat. 868, provided that: "Any person who shall retire for age after serving at least thirty years as Director of the Federal Bureau of Investigation shall receive an annuity during the remainder of his life equal to the salary payable to him at the time of his retirement."

NATIONAL GUARD TECHNICIANS

Amendment by Pub. L. 90-486 not applicable to persons employed prior to Jan. 1, 1969 whose employment was covered by the civil service retirement provisions of section 8331 et seq. of this title, see section 5(d) of Pub. L. 90-486, set out as a note under section 709 of Title 32, National Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8332, 8334, 8336, 8337, 8338, 8340, 8341, 8342, 8344 of this title; title 10 sections 1450, 1452.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 11-1564 of the District of Columbia Code.

§ 8340. Cost-of-living adjustment of annuities

(a) Effective December 1, 1965, each annuity payable from the Fund having a commencing date before December 2, 1965, is increased by—

(1) the percent rise in the price index, adjusted to the nearest 1/10 of 1 percent, determined by the Civil Service Commission on the basis of the annual average price index for calendar year 1962 and the price index for the base month of July 1965; plus

(2) 6½ percent if the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred before October 2, 1956, or 1½ percent of the commencing date (or in the case of the survivor of a deceased annuitant the commencing date of the annuity of the retired employee) occurred after October 1, 1956.

Each annuity payable from the Fund (other than the immediate annuity of an annuitant's survivor or of a child entitled under section 8341(e) of this title) having a commencing date after December 1, 1965, but before January 1, 1966, is increased from its commencing date as if the annuity commencing date were December 1, 1965. Each survivor annuity authorized by—

(A) section 8 of the Act of May 29, 1930, as amended to July 6, 1950; or

(B) section 2 of the Act of June 25, 1958 (72 Stat. 219);

is increased by any additional amount required to make the total increase under this subsection equal to the smaller of 15 percent or $10 a month.

(b)(1) The Commission shall—

(A) on January 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for December of the preceding year over the price index published for June of the preceding year, and

(B) on July 1 of each year, or within a reasonable time thereafter, determine the percent change in the price index published for June of such year over the price index published for December of the preceding year.

(2) If in any year the percent change determined under either paragraph (1)(A) or (1)(B) indicates a rise in the price index, then—

(A) effective March 1 of such year, in the case of an increase under paragraph (1)(A), each annuity payable from the Fund having a commencing date not later than such March 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent, or

(B) effective September 1 of such year, in the case of an increase under paragraph (1)(B), each annuity payable from the Fund having a commencing date not later than such September 1 shall be increased by the percent change computed under such paragraph, adjusted to the nearest 1/10 of 1 percent.

(c) Eligibility for an annuity increase under this section is governed by the commencing date of each annuity payable from the Fund as of the effective date of an increase, except as follows:

(1) An annuity (except a deferred annuity under section 8338 of this title or any other provision of law) which—

(A) is payable from the Fund to an employee or Member who retires, or to the widow or widower of a deceased employee or Member; and

(B) has a commencing date after the effective date of the then last preceding annuity increase under subsection (b) of this section;

shall not be less than the annuity which would have been payable if the commencing date of such annuity had been the effective date of the then last preceding annuity increase under subsection (b) of this section. In the administration of this paragraph, an employee or a deceased employee shall be deemed, for the purposes of section 8339(m) of this title, to have to his credit, on the effective date of the then last preceding annuity increase under subsection (b) of this section, a number of days of unused sick leave equal to the number of days of unused sick leave to his credit on the date of his separation from the service.

(2) Effective from its commencing date, an annuity payable from the Fund to an annuitant's survivor (except a child entitled under section 8341(e) of this title), which annuity commences the day after the death of the annuitant and after the effective date of the first increase under this section, shall be increased by the total percent increase the

annuitant was receiving under this section at death. However, the increase in a survivor annuity authorized by section 8 of the Act of May 29, 1930, as amended to July 6, 1950, shall be computed as if the annuity commencing date had been the effective date of the first increase under this section.

(3) For the purpose of computing the annuity of a child under section 8341(e) of this title that commences after October 31, 1969, the items $900, $1,080, $2,700, and $3,240 appearing in section 8341(e) of this title shall be increased by the total percent increases allowed and in force under this section on or after such day and, in case of a deceased annuitant, the items 60 percent and 75 percent appearing in section 8341(e) of this title shall be increased by the total percent allowed and in force to the annuitant under this section on or after such day.

(d) This section does not authorize an increase in an additional annuity purchased at retirement by voluntary contributions.

(e) The monthly installment of annuity after adjustment under this section shall be fixed at the nearest dollar. However, the monthly installment shall after adjustment reflect an increase of at least $1.

(f) Effective September 1, 1966, or on the commencing date of annuity, whichever is later, the annuity of each surviving spouse whose entitlement to annuity payable from the Fund resulted from the death of—

(1) an employee or Member before October 11, 1962; or

(2) a retired employee or Member whose retirement was based on a separation from service before October 11, 1962;

is increased by 10 percent.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 576; Pub. L. 90-83, § 1(79), Sept. 11, 1967, 81 Stat. 215; Pub. L. 91-93, title II, § 204, Oct. 20, 1969, 83 Stat. 139; Pub. L. 93-136, § 1, Oct. 24, 1973, 87 Stat. 490; Pub. L. 94-126, § 2(b), Nov. 12, 1975, 89 Stat. 679; Pub. L. 94-183, § 2(35), Dec. 31, 1975, 89 Stat. 1058; Pub. L. 94-440, title XIII, § 1306(a), (c)(1), Oct. 1, 1976, 90 Stat. 1462.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2268	July 31, 1956, ch. 804, § 401 "Sec. 18"; added Oct. 11, 1962, Pub. L. 87-793, § 1102(b) (less so much as redesignated § 18 as 19), 76 Stat. 869.

In subsection (a), the words "After January 1, 1964" and "other than 1964" and subsection (a)(1) of former section 2268, are omitted as executed.

In subsection (b), the words "subsection (a) of this section" are substituted for "subsection (a)(1) or (a)(2) of this section" since subsection (a)(1) has been omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8340(a)	5 App.: 2268 (a), (f)	Sept. 27, 1965, Pub. L. 89-205, § 1(c), 79 Stat. 840.
8340(b)	5 App.: 2268 (b)	Nov. 1, 1965, Pub. L. 89-314, § 1, 79 Stat. 1162.
8340(c)	5 App.: 2268 (c)	
8340(d)	5 App.: 2268 (d)	July 18, 1966, Pub. L. 89-504, § 507, 80 Stat. 302.
8340(e)	5 App.: 2268 (e)	
8340(f)	5 App.: 2268 (g)	

In subsection (a), the words "Effective December 1, 1965 * * * before December 2, 1965," are substituted for "Effective the first day of the third month which begins after the date of enactment of this amendment * * * not later than such effective date." In clause (1), the words "month of July 1965" are substituted for "month latest published on date of enactment of this amendment" for clarity and since the July 1965 price index was the price index for the month latest published on September 27, 1965, the date of enactment of the amendment. The word "base" is inserted before "month of July 1965" for clarity and on authority of the second sentence of 5 U.S.C. App. 2268(a) which provided: "The month used in determining the increase based on the per centum rise in the price index under this subsection shall be the base month for determining the per centum change in the price index until the next succeeding increase occurs." In view of the foregoing and of the definition of "base month" in 5 U.S.C. 8331(16), the quoted sentence is omitted as executed and unnecessary. In clause (2), the words "before October 2, 1956," are substituted for "on or before October 1, 1956." In the second sentence, which is based on 5 App. U.S.C. 2268(f), the words "before January 1, 1966," are substituted for "not later than December 31, 1965." In clause (B), the words "Act of June 25, 1958 (72 Stat. 219)" are substituted for "Public Law 85-465" to conform to the style of title 5, United States Code.

In the first sentence of subsection (b), the words "after the first increase under this section," following "Each month," are omitted as executed and unnecessary.

In subsection (f), the words "September 1, 1966," are substituted for "the first day of the second month after the enactment of this subsection."

REFERENCES IN TEXT

Section 8 of the Act of May 29, 1930, as amended to July 6, 1950, referred to in subsec. (a)(2)(A), is now covered by section 8338 of this title.

Section 2 of the Act of June 25, 1958 (72 Stat. 219), referred to in subsec. (a)(2)(B) was formerly section 2259 of this title and is now covered by section 8339 of of this title.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-440, § 1306(a), struck out "1 percent plus" following "shall be increased by".

Pub. L. 94-440, § 1306(c)(1), substituted provisions requiring that Commission shall determine percent change in price index on Jan. 1 and July 1 of each year and effective Mar. 1 or Sept. 1, each annuity payable from Fund shall be increased by the computed percent change in the price index adjusted to the nearest ⅒ of 1 percent, for provisions requiring that Commission shall determine percent change in price index on a monthly basis and effective the first day of the third month that begins after the price index change equals a rise of 3 percent for 3 consecutive months over the prior price index, each annuity payable from Fund shall be increased by the highest rise in the price index over those months adjusted to the nearest ⅒ of 1 percent.

1975—Subsec. (c)(1). Pub. L. 94-126 substituted reference to "section 8339(m) of this title" for "section 8339(n) of this title".

Subsec. (c)(3). Pub. L. 94-183 substituted "after October 31, 1969" for "on or after the first day of the first month that begins on or after the date of enactment of the Civil Service Retirement Amendments of 1969".

1973—Subsec. (c). Pub. L. 93-136 redesignated existing pars. (1) and (2) as pars. (2) and (3) and added par. (1).

1969—Subsec. (b). Pub. L. 91-93, § 204(a), increased the annuity payable from the Fund by 1 percent.

Subsec. (c)(2). Pub L. 91-93, § 204(b), increased the minimum survivor annuity for children of a deceased Federal employee, substituting dollar and percentage references to $900, $1,080, $2,700, $3,240, and 60 and 75 percent for prior references to $600, $720, $1,800, $2,160 and 40 and 50 percent respectively, such new increases to commence on or after the first day of the first month that begins on or after Oct. 20, 1969, the date of enactment of the Civil Service Retirement Amendments of 1969, whereas prior provisions were for computation of a child's annuity commencing after effective date of first increase under this section based on employee annuity that commenced after Oct. 1, 1956, or was payable at death.

Effective Date of 1976 Amendment

Section 1306(b) of Pub. L. 94-440 provided that: "The amendment made by subsection (a) [amending subsec. (b) of this section to strike out authorization of 1 percent increase in addition to the percent rise] shall apply to any increase in annuities after the date of enactment of this Act [Oct. 1, 1976]."

Section 1306(c)(2) of Pub. L. 94-440 provided that: "The amendment made by subsection (1) [amending subsec. (b) of this section. See 1976 Amendment and Effective Date notes set out hereunder] shall apply to any increase in annuities after the date of enactment of this Act [Oct. 1, 1976], except that with respect to the first date after the date of enactment of this Act on which the Commission is to determine a percent change, such percent change shall be determined by computing the change in the price index published for the month immediately preceding such first date over the price index for the last month prior to the date of enactment of this Act for which the price index showed a percent rise forming the basis for a cost-of-living annuity increase under section 8340(b) of title 5, United States Code [subsec. (b) of this section], as in effect immediately prior to the date of the enactment of this Act [Oct. 1, 1976]."

Effective Date of 1973 Amendment

Section 2 of Pub. L. 93-136 provided that: "The amendments made by this Act [amending this section] shall apply only with respect to annuities which commence on or after July 2, 1973."

Effective Date of 1969 Amendment

Section 207(b) of Pub. L. 91-93 provided that: "The amendments made by section 204(a) of this Act to section 8340 of title 5, United States Code [to subsec. (b) of this section], shall apply only to annuity increases which become effective under such section 8340 after the date of enactment of this Act [Oct. 20, 1969]."

Cost-of-Living Adjustment of Retired Pay or Retainer Pay of Members and Former Members of Armed Forces and Commissioned Officers of National Oceanic and Atmospheric Administration and Public Health Service; Effective Date of Amendment

See provisions of section 801(c) of Pub. L. 94-361, title VIII, July 14, 1976, 90 Stat. 929, set out as a note under section 1401a of Title 10, Armed Forces.

Section Referred to in Other Sections

This section is referred to in sections 8341, 8348 of this title; title 22 section 1121.

Section Referred to in D.C. Code

This section is referred to in section 11-1571 of the District of Columbia Code.

§ 8341. Survivor annuities

(a) For the purpose of this section—

(1) "widow" means the surviving wife of an employee or Member who—

(A) was married to him for at least 1 year immediately before his death; or

(B) is the mother of issue by that marriage;

(2) "widower" means the surviving husband of an employee or Member who—

(A) was married to her for at least 1 year immediately before her death; or

(B) is the father of issue by that marriage; and

(3) "child" means—

(A) an unmarried child under 18 years of age, including (i) an adopted child, and (ii) a stepchild or recognized natural child who lived with the employee or Member in a regular parent-child relationship, and (iii) a child who lived with and for whom a petition of adoption was filed by an employee or Member, and who is adopted by the surviving spouse of the employee or Member after his death;

(B) such unmarried child regardless of age who is incapable of self-support because of mental or physical disability incurred before age 18; or

(C) such unmarried child between 18 and 22 years of age who is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution.

For the purpose of this paragraph and subsection (e) of this section, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while he is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim between school years if the interim is not more than 5 months and if he shows to the satisfaction of the Civil Service Commission that he has a bona fide intention of continuing to pursue a course of study or training in the same or different school during the school semester (or other period into which the school year is divided) immediately after the interim.

(b)(1) Except as provided in paragraph (2) of this subsection, if an employee or Member dies after having retired under this subchapter and is survived by a spouse to whom he was married at the time of retirement, or by a widow or widower whom he married after retirement, the spouse, widow, or widower is entitled to an annuity equal to 55 percent, or 50 percent if retired before October 11, 1962, of an annuity computed under section 8339(a)-(i) of this title as may apply with respect to the annuitant, or of such portion thereof as may have been designated for this purpose under section 8339(j) of this title, unless the employee or Member has notified the Commission in writing at the time of retirement that he does not desire any spouse surviving him to receive this annuity.

(2) If an annuitant—

(A) who retired before April 1, 1948; or

(B) who elected a reduced annuity provided in paragraph (2) of section 8339(k) of this title;

dies and is survived by a widow or widower, the widow or widower is entitled to an annuity in an amount which would have been paid had the annuitant been married to the widow or widower at the time of retirement.

(3) A spouse acquired after retirement is entitled to a survivor annuity under this subsection only upon electing this annuity instead of any other survivor benefit to which he may be entitled under this subchapter or another retirement system for Government employees. The annuity of the spouse, widow, or widower under this subsection commences on the day after the annuitant dies. This annuity and the right thereto terminate on the last day of the month before the spouse, widow, or widower—

(A) dies; or

(B) remarries before becoming 60 years of age.

(c) The annuity of a survivor named under section 8339(k)(1) of this title is 55 percent of the reduced annuity of the retired employee or Member. The annuity of the survivor commences on the day after the retired employee or Member dies. This annuity and the right thereto terminate on the last day of the month before the survivor dies.

(d) If an employee or Member dies after completing at least 18 months of civilian service, his widow or widower is entitled to an annuity equal to 55 percent of an annuity computed under section 8339(a)-(f) and (i) of this title as may apply with respect to the employee or Member, except that, in the computation of the annuity under such section, the annuity of the employee or Member shall be at least the smaller of—

(1) 40 percent of his average pay; or

(2) the sum obtained under such section after increasing his service of the type last performed by the period elapsing between the date of death and the date he would have become 60 years of age.

The annuity of the widow or widower commences on the day after the employee or Member dies. This annuity and the right thereto terminate on the last day of the month before the widow or widower—

(A) dies; or

(B) remarries before becoming 60 years of age.

(e)(1) If an employee or Member dies after completing at least 18 months of civilian service, or an employee or Member dies after retiring under this subchapter, and is survived by a spouse, each surviving child is entitled to an annuity equal to the smallest of—

(A) 60 percent of the average pay of the employee or Member divided by the number of children;

(B) $900; or

(C) $2,700 divided by the number of children;

subject to section 8340 of this title. If the employee or Member is not survived by a spouse, each surviving child is entitled to an annuity equal to the smallest of—

(i) 75 percent of the average pay of the employee or Member divided by the number of children;

(ii) $1,080; or

(iii) $3,240 divided by the number of children;

subject to section 8340 of this title.

(2) The annuity of a child under this subchapter or under the Act of May 29, 1930, as amended from and after February 28, 1948, commences on the day after the employee or Member dies, or commences or resumes on the first day of the month in which the child later becomes or again becomes a student as described by subsection (a)(3) of this section, if any lump sum paid is returned to the Fund. This annuity and the right thereto terminate on the last day of the month before the child—

(A) becomes 18 years of age unless he is then a student as described or incapable of self-support;

(B) becomes capable of self-support after becoming 18 years of age unless he is then such a student;

(C) becomes 22 years of age if he is then such a student and capable of self-support;

(D) ceases to be such a student after becoming 18 years of age unless he is then incapable of self-support; or

(E) dies or marries;

whichever first occurs. On the death of the surviving spouse or termination of the annuity of a child, the annuity of any other child or children shall be recomputed and paid as though the spouse or child had not survived the employee or Member.

(f) If a Member heretofore or hereafter separated from the service with title to deferred annuity from the Fund hereafter dies before having established a valid claim for annuity and is survived by a spouse to whom married at the date of separation, the surviving spouse—

(1) is entitled to an annuity equal to 55 percent of the deferred annuity of the Member commencing on the day after the Member dies and terminating on the last day of the month before the surviving spouse dies or remarries; or

(2) may elect to receive the lump-sum credit instead of annuity if the spouse is the individual who would be entitled to the lump-sum credit and files application therefor with the Commission before the award of the annuity.

(g) In the case of a surviving spouse whose annuity under this section is terminated after July 18, 1966, because of remarriage before becoming 60 years of age, annuity at the same rate shall be restored commencing on the day the remarriage is dissolved by death, annulment, or divorce, if—

(1) the surviving spouse elects to receive this annuity instead of a survivor benefit to which he may be entitled, under this subchapter or another retirement system for Government employees, by reason of the remarriage; and

(2) any lump sum paid on termination of the annuity is returned to the Fund.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 577; Pub. L. 90-83, § 1(80), Sept. 11, 1967, 81 Stat. 216; Pub. L. 91-93, title II, § 206, Oct. 20, 1969, 83 Stat. 140; Pub. L. 91-658, § 3, Jan. 8, 1971, 84 Stat. 1961; Pub. L. 92-243, § 1, Mar. 9, 1972, 86 Stat. 56; Pub. L. 92-297, § 7(4), May 16, 1972, 86 Stat. 145; Pub. L. 93-260, § 1(a), Apr. 9, 1974, 88 Stat. 76; Pub. L. 94-183, § 2(36), Dec. 31, 1975, 89 Stat. 1058.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*revised Statutes and Statutes at Large*
(a)	5 U.S.C. 2251 (h)-(j).	July 31, 1956, ch. 804, § 401 "Sec. 1(h)-(j), 70 Stat. 744. Oct. 11, 1962, Pub. L. 87-793, § 1103(f)(A), 76 Stat. 871.
(b)-(f)	5 U.S.C. 2260	July 31, 1956, ch. 804, § 401 "Sec. 10", 70 Stat. 754. Aug. 27, 1958, Pub. L. 85-772, § 1(b), (c), 72 Stat. 930. Sept. 6, 1960, Pub. L. 86-713, § 1(a), 74 Stat. 813. Oct. 11, 1962, Pub. L. 87-793, § 1103 (less (a) and (f)(A)), 76 Stat. 870, 871.

In subsection (b), the words "designated for this purpose under section 8339(i) of this title" are substituted for "designated in writing for such purpose by the employee or Member at the time of retirement" in view of the provisions of section 8339(i).

In subsection (f), the words "heretofore or hereafter" are substituted "either prior to, on, or after the effective date of the Civil Service Retirement Act Amendments of 1956".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8341(a)(4)	5 App.: 2251(j) (less last sentence).	Apr. 25, 1966, Pub. L. 89-407, § 1 (words before 1st comma), 80 Stat. 131. July 18, 1966, Pub. L. 89-504, § 502, 80 Stat. 300.
8341(b) (last sentence)	5 App.: 2260(a)(2)	July 18, 1966, Pub. L. 89-504, § 506(a), 80 Stat. 301.
8341(d) (last sentence)	5 App.: 2260(c) (last sentence).	July 18, 1966, Pub. L. 89-504, § 506(b), 80 Stat. 301.
8341(e)	5 App.: 2260(d)	July 18, 1966, Pub. L. 89-504, § 506(c), 80 Stat. 301.
8341(g)	5 App.: 2260(f)	July 18, 1966, Pub. L. 89-504, § 506(d), 80 Stat. 302.

In subsection (a)(4), the words "for the purposes of section 10(d)" are omitted as covered by the words "For the purpose of this section."

In clause (2) of the last sentence of subsection (b), the word "retired" is inserted before "Member" for clarity and to conform to the penultimate sentence and clause (1) of the last sentence.

In subsection (e), the words "any lump sum paid" are substituted for "the lump-sum credit, if paid" for clarity and consistency with subsection (g)(2).

In subsection (e)(2)(C), the words "capable of self-support" are substituted for "not incapable of self-support."

In subsection (g), the words "after July 18, 1966" are substituted for "hereafter." In clause (1), the word "he" is substituted for "he or she" on authority of 1 U.S.C. 1. The words "another retirement system for Government employees" are substituted for "any other retirement system established for employees of the Government" for consistency with section 8101(1)(ii).

REFERENCES IN TEXT

The act of May 29, 1930, as amended from and after February 28, 1948, referred to in subsec. (e)(2), is now covered by section 8338 of this title.

AMENDMENTS

1975—Subsec. (c). Pub. L. 94-183 substituted "8339(k)(1)" for "8339(k)".

1974—Subsec. (a)(1)(A). Pub. L. 93-260 substituted "1 year" for "2 years".

Subsec. (a)(2)(A). Pub. L. 93-260 substituted "1 year" for "2 years".

1972—Subsec. (a)(3)(A). Pub. L. 92-243 added cl. (iii).

Subsec. (c). Pub. L. 92-297, § 7(4)(i), substituted "section 8339(a)-(i)", "section 8339(j)", and "section 8339(k)" for "section 8339(a)-(h)", "section 8339(i)", and "section 8339(j)", respectively.

Pub. L. 92-297, § 7(4)(ii), substituted "section 8339(k)" for "section 8339(j)".

Subsec. (d). Pub. L. 92-297, § 7(4)(iii) substituted "section 8339 (a)-(f) and (i)" for "section 8339 (a)-(e) and (h)".

1971—Subsec. (a)(3). Pub. L. 91-658, § 3(a), struck out par. (3) definition of "dependent widower" and renumbered former par. (4) as (3).

Subsec. (a)(4). Pub. L. 91-658, § 3(a), renumbered former par. (4) as (3).

Subsec. (b). Pub. L. 91-658, § 3(b), designated existing first sentence as par. (1), and inserted therein exception phrase, provision for survival by widow or widower whom employee or Member marries after retirement, entitlement of widow or widower to 55 percent annuity (limited to 50 percent where retirement before Oct. 11, 1962), and substituted "any spouse surviving him" for "his spouse"; added par. (2); and added par. (3), first sentence, respecting entitlement to survivor annuity by a spouse acquired after retirement upon election from available survivor benefits, and designated as second and third sentences thereof former second and third sentences, providing therein for widows and widowers and substituting "annuitant" for "retired employee or member".

Subsec. (d). Pub. L. 91-658, § 3(c), substituted "his widow or widower" for "the widow or dependent widower of the employee or Member" in first sentence, deleted "or dependent" preceding "widower" in second sentence, and substituted in third sentence provision for termination of annuity where widow or widower dies or remarries before becoming 60 years of age for prior termination of annuity before widow or dependent widower dies, the dependent widower becomes capable of self-support, the widow or dependent widower of an employee remarries before becoming 60 years of age, or the widow or dependent widower of a member remarries.

Subsec. (e)(2). Pub. L. 91-658, § 3(d), substituted reference to "subsection (a)(3)" for "subsection (a)(4)".

1969—Subsec. (d). Pub. L. 91-93, § 206(a), provided for entitlement to a survivor annuity after an 18 month rather than a 5 year period of civilian service and prescribed as the annuity the smaller of two computations when computing the annuity under section 8399 (a) to (e) and (h) of this title.

Subsec. (e)(1). Pub. L. 91-93, § 206(b), increased the annuity of a surviving child, substituting "eighteen months" for "five years" of civilian service in par. (1), "60 percent", "$900", and "$2,700" for "40 percent", "$600", and "$1,800" in cls. (A), (B), and (C), respectively, and "75 percent", "$1,080", and "$3,240", for

"50 percent", "$720", and "$2,160" in cls. (i), (ii), and (iii), respectively.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 1(b) of Pub. L. 93-260 provided that: "The amendments made by subsection (a) of this section [amending subsecs. (a)(1)(A), (2)(A) of this section] shall not apply in the cases of employees, Members, or annuitants who died before the date of enactment of this Act [Apr. 9, 1974]. The rights of such individuals and their survivors shall continue in the same manner and to the same extent as if such amendments had not been enacted."

EFFECTIVE DATE OF 1972 AMENDMENTS

Amendment by Pub. L. 92-297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

Section 2 of Pub. L. 92-243 provided that: "The amendment made by the first section of this Act [adding subsec. (a)(3)(iii) of this section] is effective upon enactment [Mar. 9, 1972]. Upon application to the Civil Service Commission, it also applies to a child of an employee or Member who died or retired before such date of enactment [Mar. 9, 1972] but no annuity shall be paid by reason of the amendment for any period prior to the date of enactment [Mar. 9, 1972]."

EFFECTIVE DATE OF 1969 AMENDMENT

Section 2 of Pub. L. 91-189 provided that: "The provisions of section 8341(e) of title 5, United States Code [subsec. (e) of this section], as amended by section 206(b) of Public Law 91-93 (83 Stat. 140), shall be effective as of October 20, 1969."

Amendment of subsec. (d) by Pub. L. 91-93 inapplicable in cases of persons retired or otherwise separated prior to Oct. 20, 1969; their rights and of their survivors continued as if such subsec. (d) had not been amended, see section 207(a) of Pub. L. 91-93 set out as a note under section 8331 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT; RECOMPUTATION AND REDUCTION OF SURVIVOR ANNUITIES

Section 207(c) of Pub. L. 91-93 provided that:

"(1) The amendment made by section 206(b) of this Act [to subsec. (e)(1) of this section] shall become effective on the first day of the first month which begins on or after the date of enactment of this Act [Oct. 20, 1969].

"(2) The annuity of each surviving child who, immediately prior to the effective date of such amendment [to subsec. (e)(1) of this section] is receiving an annuity under section 8341(e) of title 5, United States Code [subsec. (e) of this section], or under a comparable provision of any prior law, or who hereafter becomes entitled to receive annuity under the Act of May 29, 1930, as amended from and after February 28, 1948, shall be recomputed effective on such date, or computed from commencing date if later, in accordance with such amendment. No increase allowed and in force prior to such date shall be included in the computation or recomputation of any such annuity. This paragraph shall not operate to reduce any annuity."

INCREASE IN ANNUITY PAYABLE TO SURVIVING SPOUSES OF MEMBERS, EMPLOYEES, OF ANNUITIES BASED ON SEPARATION OCCURRING PRIOR TO OCT. 20, 1969

Section 2(b) of Pub. L. 93-273, Apr. 26, 1974, 88 Stat. 93, provided that: "In lieu of any increase based on an increase under subsection (a) of this section, an annuity payable from the Civil Service Retirement and Disability Fund to the surviving spouse of an employee, Member, or annuitant, which is based on a separation occurring prior to October 20, 1969 shall be increased by $132."

Section 3 of Pub. L. 93-273, Apr. 26, 1974, 88 Stat. 93 provided in part that annuity increases under this pension shall apply to annuities which commence before, on, or after Apr. 26, 1974, but that no increase in annuity shall be paid for any period prior to the first day of the first month which begins on or after the ninetieth day after Apr. 26, 1974, or the date on which the annuity commences, whichever is later. See section 3 of Pub. L. 93-273, set out as a note under section 8345 of this title.

REMARRIAGE PROVISIONS

Section 205 of Pub. L. 91-93 provided that:

"The provisions of subsection (b)(1), (d)(3), and (g) of section 8341 of title 5, United States Code, also shall apply in the case of any widow or widower—

"(1) of an employee who died, retired, or was otherwise finally separated before July 18, 1966;

"(2) who shall have remarried on or after such date; and

"(3) who, immediately before such remarriage, was receiving annuity from the Civil Service Retirement and Disability Fund;

except that no annuity shall be paid by reason of this section for any period prior to the enactment of this section. No annuity shall be terminated solely by reason of the enactment of this section. Notwithstanding the prohibition contained in the first sentence of this section on the payment of annuity for any period prior to the enactment of this section, in any case in which the Civil Service Commission determines that—

"(1) the remarriage of any widow or widower described in such sentence was entered into by the widow or widower in good faith and in reliance on erroneous information provided by Government authority prior to that remarriage that the then existing survivor annuity of the widow or widower would not be terminated because of the remarriage; and

"(2) such annuity was terminated by law because of that remarriage;

then payment of annuity may be made by reason of this section in such case, beginning as of the effective date of the termination because of the remarriage."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8331, 8333, 8339, 8340, 8344 of this title; title 10 sections 1450, 1452.

§ 8342. Lump-sum benefits; designation of beneficiary; order of precedence

(a) An employee or Member who is separated from the service, or is transferred to a position in which he does not continue subject to this subchapter, is entitled to be paid the lump-sum credit if his separation or transfer occurs and application for payment is filed with the Civil Service Commission at least 31 days before the earliest commencing date of any annuity for which he is eligible. The receipt of payment of the lump-sum credit by the individual voids all annuity rights under this subchapter, until he is reemployed in the service subject to this subchapter. This subsection also applies to an employee or Member separated before October 1, 1956, after completing at least 20 years of civilian service.

(b) Under regulations prescribed by the Commission, a present or former employee or Member may designate a beneficiary or beneficiaries for the purpose of this subchapter.

(c) Lump-sum benefits authorized by subsections (d)-(f) of this section shall be paid to the person or persons surviving the employee or Member and alive at the date title to the payment arises in the following order of precedence, and the payment bars recovery by any other person:

First, to the beneficiary or beneficiaries designated by the employee or Member in a signed and witnessed writing received in the Commission before his death. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

Second, if there is no designated beneficiary, to the widow or widower of the employee or Member.

Third, if none of the above, to the child or children of the employee or Member and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the employee or Member or the survivor of them.

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the employee or Member.

Sixth, if none of the above, to such other next of kin of the employee or Member as the Commission determines to be entitled under the laws of the domicile of the employee or Member at the date of his death.

For the purpose of this subsection, "child" includes a natural child and an adopted child, but does not include a stepchild.

(d) If an employee or Member dies—

(1) without a survivor; or

(2) with a survivor or survivors and the right of all survivors terminates before a claim for survivor annuity is filed;

or if a former employee or Member not retired dies, the lump-sum credit shall be paid.

(e) If all annuity rights under this subchapter based on the service of a deceased employee or Member terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

(f) If an annuitant dies, annuity accrued and unpaid shall be paid.

(g) Annuity accrued and unpaid on the termination, except by death, of the annuity of an annuitant or survivor annuitant shall be paid to that individual. Annuity accrued and unpaid on the death of a survivor annuitant shall be paid in the following order of precedence, and the payment bars recovery by any other person:

First, to the duly appointed executor or administrator of the estate of the survivor annuitant.

Second, if there is no executor or administrator, payment may be made, after 30 days from the date of death of the survivor annuitant, to such next of kin of the survivor annuitant as the Commission determines to be entitled under the laws of the domicile of the survivor annuitant at the date of his death.

(h) Amounts deducted and withheld from the basic pay of an employee or Member from the first day of the first month which begins after he has performed sufficient service (excluding service which the employee or Member elects to eliminate for the purpose of annuity computation under section 8339 of this title) to entitle him to the maximum annuity provided by section 8339 of this title, together with interest on the amounts at the rate of 3 percent a year compounded annually from the date of the deductions to the date of retirement or death, shall be applied toward any deposit due under section 8334 of this title, and any balance not so required is deemed a voluntary contribution for the purpose of section 8343 of this title.

(i) An employee who—

(1) is separated from the service before July 12, 1960; and

(2) continues in the service after July 12, 1960, without break in service of 1 workday or more;

is entitled to the benefits of subsection (h) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 579; Pub. L. 90-83, § 1(81), Sept. 11, 1967, 81 Stat. 217.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2261	July 31, 1956, ch. 804, § 401 "Sec. 11" 70 Stat. 755. July 12, 1960, Pub. L. 86-622, § 1(a), 74 Stat. 409. Oct. 4, 1961, Pub. L. 87-350, § 3, 75 Stat. 771.

In subsection (a), the words "before October 1, 1956" are substituted for "prior to the effective date of the Civil Service Retirement Act Amendments of 1956" on authority of § 406 of the Act of July 31, 1956, ch. 804, 70 Stat. 761.

In subsection (g), the words "the expiration of" are omitted as surplusage.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8342(a)	[No source]	[No source.]
8342(c)	5 App.: 2261(c)	Mar. 23, 1966, Pub. L. 89-373, § 2, 80 Stat. 78.
	5 App.: 2251(j) (last sentence).	Apr. 25, 1966, Pub. L. 89-407, § 1 (less words before 1st comma), 80 Stat. 131.

In subsection (a), the amendment is made for consistency within the subchapter and to reflect that it is the individual, rather than the position, that is subject to the subchapter.

In the last sentence of subsection (c), the words "this subsection" are substituted for "section 11" to reflect the codification of title 5, United States Code.

CROSS REFERENCES

Return of retirement fund contributions to personnel of former Bureau of Marine Inspection and Navigation, and Bureau of Customs who are commissioned, appointed or enlisted in the Coast Guard, see section 433 of Title 14, Coast Guard.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8316, 8343 of this title; title 16 section 1168.

§ 8343. Additional annuities; voluntary contributions

(a) Under regulations prescribed by the Civil Service Commission, an employee or Member may voluntarily contribute additional sums in multiples of $25, but the total may not exceed 10 percent of his basic pay for creditable service after July 31, 1920. The voluntary contribution account in each case is the sum of unrefunded contributions, plus interest at 3 percent a year compounded annually to—

(1) the date of payment under subsection (d) of this section, separation, or transfer to a position in which he does not continue subject to this subchapter, whichever is earliest; or

(2) the commencing date fixed for a deferred annuity or date of death, whichever is earlier, in the case of an individual who is separated with title to deferred annuity and does not claim the voluntary contribution account.

(b) The voluntary contribution account is used to purchase at retirement an annuity in addition to the annuity otherwise provided. For each $100 in the voluntary contribution account, the additional annuity consists of $7, increased by 20 cents for each full year, if any, the employee or Member is over 55 years of age at the date of retirement.

(c) A retiring employee or Member may elect a reduced additional annuity instead of the additional annuity described by subsection (b) of this section and designate in writing an individual to receive after his death an annuity of 50 percent of his reduced additional annuity. The additional annuity of the employee or Member making the election is reduced by 10 percent, and by 5 percent for each full 5 years the individual designated is younger than the retiring employee or Member. However, the total reduction may not exceed 40 percent.

(d) A present or former employee or Member is entitled to be paid the voluntary contribution account if he files application for payment with the Commission before receiving an additional annuity. An individual who has been paid the voluntary contribution account may not again deposit additional sums under this section until, after a separation from the service of more than 3 calendar days, he again becomes subject to this subchapter.

(e) If a present or former employee or Member not retired dies, the voluntary contribution account is paid under section 8342(c) of this title. If all additional annuities or any right thereto based on the voluntary contribution account of a deceased employee or Member terminate before the total additional annuity paid equals the account, the difference is paid under section 8342(c) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 580; Pub. L. 90-83, § 1(82), Sept. 11, 1967, 81 Stat. 217.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2262	July 31, 1956, ch. 804, § 401 "Sec. 12", 70 Stat. 756. Aug. 14, 1958, Pub. L. 85-661, § 1, 72 Stat. 614.

In subsection (a), the words "after July 31, 1920" are substituted for "on or after August 1, 1920". In paragraph (1), the words "payment under subsection (d) of this section" are based on "but such account shall not in any case include interest beyond date of payment" in former section 2262(d); the latter, accordingly, are omitted from subsection (d).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends 5 U.S.C. 8343(a)(1) for consistency within the subchapter and to reflect that it is the individual, rather than the position, that is subject to the subchapter.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8342 of this title.

§ 8344. Annuities and pay on reemployment

(a) If an annuitant receiving annuity from the Fund, except—

(1) a disability annuitant whose annuity is terminated because of his recovery or restoration of earning capacity;

(2) an annuitant whose annuity, based on an involuntary separation (other than an automatic separation or an involuntary separation for cause on charges of misconduct or delinquency), is terminated under subsection (b) of this section;

(3) an annuitant whose annuity is terminated under subsection (c) of this section; or

(4) a Member receiving annuity from the Fund;

becomes employed in an appointive or elective position, his service on and after the date he is so employed is covered by this subchapter. Deductions for the Fund may not be withheld from his pay. An amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title. The amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund. If the annuitant serves on a full-time basis, except as President, for at least 1 year, or on a part-time basis for periods equivalent to at least 1 year of full-time service, in employment not excluding him from coverage under section 8331(1)(i) or (ii) of this title—

(A) his annuity on termination of employment is increased by an annuity computed under section 8339(a), (b), (d), (e), (h), and (i) of this title as may apply based on the period of employment and the basic pay, before deduction, averaged during that employment; and

(B) his lump-sum credit may not be reduced by annuity paid during that employment.

If the annuitant is receiving a reduced annuity as provided in section 8339(j) or section 8339(k)(2) of this title, the increase in annuity payable under subparagraph (A) of this subsection is reduced by 10 percent and the survivor annuity payable under section 8341(b) of this title is increased by 55 percent of the increase in annuity payable under such subparagraph (A), unless, at the time of claiming the increase payable under such subparagraph (A), the annuitant notifies the Commission in writing that he does not desire the survivor annuity to be increased. If the annuitant dies while still reemployed, the survivor annuity payable is increased as though the reemployment had otherwise terminated. If the described employment of the annuitant continues for at least 5 years, or the equivalent of 5 years in the case of part-time employment, he may elect, instead of the benefit provided by subparagraph (A) of this subsection, to deposit in the Fund an amount computed under section 8334(c) of this title covering that employment and have his rights redetermined under this subchapter. If the annuitant dies while still reemployed and the described employment had continued for at least 5 years, or the equivalent of 5 years in the case of part-time employment, the person entitled to survivor annuity under section 8341(b) of this title may elect to deposit in the Fund and have his rights redetermined under this subchapter.

(b) If an annuitant, other than a Member receiving an annuity from the Fund, whose annuity is based on an involuntary separation (other than an automatic separation or an involuntary separation for cause or charges on misconduct or delinquency) is reemployed in a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

(c) If an annuitant, other than a Member receiving an annuity from the Fund, is appointed by the President to a position in which he is subject to this subchapter, payment of the annuity terminates on reemployment.

(d) If a Member receiving annuity from the Fund becomes employed in an appointive or elective position, annuity payments are discontinued during the employment and resumed in the same amount on termination of the employment, except that—

(1) the retired Member or Member separated with title to immediate or deferred annuity, who serves at any time after separation as a Member in an appointive position in which he is subject to this subchapter, is entitled, if he so elects, to have his Member annuity computed or recomputed as if the service had been performed before his separation as a Member and the annuity as so computed or recomputed is effective—

(A) the day Member annuity commences; or

(B) the day after the date of separation from the appointive position;

whichever is later;

(2) if the retired Member becomes employed after December 31, 1958, in an appointive position on an intermittent-service basis—

(A) his annuity continues during the employment and is not increased as a result of service performed during that employment;

(B) retirement deductions may not be withheld from his pay;

(C) an amount equal to the annuity allocable to the period of actual employment shall be deducted from his pay, except for lump-sum leave payment purposes under section 5551 of this title; and

(D) the amounts so deducted shall be deposited in the Treasury of the United States to the credit of the Fund;

(3) if the retired Member becomes employed after December 31, 1958, in an appointive position without pay on a full-time or substantially full-time basis, his annuity continues during the employment and is not increased as a result of service performed during the employment; and

(4) if the retired Member takes office as Member and gives notice as provided by section 8331(2) of this title, his service as Member during that period shall be credited in determining his right to and the amount of later annuity.

(e) This section does not apply to an individual appointed to serve as a Governor of the Board of Governors of the United States Postal Service.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 581; Pub. L. 90-83, § 1(83), Sept. 11, 1967, 81 Stat. 217; Pub. L. 91-375, § 6(c)(20), Aug. 12, 1970, 84 Stat. 776; Pub. L. 91-658, § 4, Jan. 8, 1971, 84 Stat. 1962; Pub. L. 92-297, § 7(5), May 16, 1972, 86 Stat. 145; Pub. L. 94-397, § 1(a)-(c), Sept. 3, 1976, 90 Stat. 1202, 1303.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2263 (less (a)).	July 31, 1956, ch. 804, § 401 "Sec. 13 (less (a))", 70 Stat. 757. July 7, 1960, Pub. L. 86-604, § 1(f), 74 Stat. 358. July 12, 1960, Pub. L. 86-622, § 3(a), 74 Stat. 410. Oct. 4, 1961, Pub. L. 87-350, § 5, 75 Stat. 771.

In subsections (a) and (b), the words "except for lump-sum leave payment purposes under section 61b of this title" are omitted as unnecessary as section 5551(a) provides that a "lump-sum leave payment is considered pay for taxation purposes only".

In subsection (a), the words "after September 30, 1956" are substituted for "hereafter" on authority of § 406 of the Act of July 31, 1956, ch. 804, 70 Stat. 761. In paragraph (2), the words "other than an automatic separation" are substituted for "excluding a separation under the automatic separation provisions of this chapter". In the third sentence, the words "and this provision concerning the lump-sum leave payments shall also be effective in the case of each retired employee separated from reemployment after December 15, 1953, and before the effective date of the Civil Service Retirement Act Amendments of 1956" are omitted as executed, and any existing rights are preserved by technical section 8. In the fourth sentence, the words "except as President" are added to preserve the exception stated in former section 2252(b). In the penultimate sentence, the words "after October 3, 1961" are substituted for "on or after October 4, 1961". In the last sentence, the words "in any manner" are omitted as unnecessary.

In subsection (b), the words "receiving annuity from the Fund" are substituted for "heretofore or hereafter retired under this chapter". The word "hereafter" is omitted as unnecessary. In paragraph (1)(B), the words "the day after" are substituted for "the first day of the month following" on authority of former section 2264(b), which is carried into section 8345(b). In paragraph (1), former clause (C) is omitted as obsolete. In paragraph (2)(D), the words "of the United States" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8344(a)	5 App.: 2263 (b) (last sentence).	Mar. 30, 1966, Pub. L. 89-378, § 1, 80 Stat. 93.

In subsection (a), the words "after July 11, 1960" are substituted for "on or after July 12, 1960." In subsection (b)(1), the amendment is made for consistency within the subchapter.

In the codification of 5 U.S.C. 8344 by Public Law 89-554, the words "except for lump-sum leave payment purposes under section 61b of this title" were omitted from the third sentence of subsection (a) and from subsection (b)(2)(C) on the basis that they were unnecessary since former 5 U.S.C. 61b [now codified as 5 U.S.C. 5551(a)] provided that a lump-sum leave payment was considered pay for taxation purposes only. This amendment restores to 5 U.S.C. 8344 the language that was so omitted to conform to the source statute (section 13 of the Civil Service Retirement Act, as amended) and in recognition that the language was expressly placed in the source statute to overcome certain decisions of the Comptroller General of the United States (see 28 Comp. Gen. 294; 33 id. 591, and 36 id. 209).

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-397, § 1(a), added provisions requiring applicability to annuitants whose annuity is terminated under subsecs. (b) and (c) of this section, authorizing deducted amounts to be deposited in the Treasury to the credit of the Fund, and covering described employment continuing for the equivalent of five years in the case of part-time employment, and struck out provisions requiring employment after Sept. 30, 1956, or service on July 31, 1956, for application of coverage, and redetermination rights for an annuitant whose annuity is based on involuntary separation from the service and who is separated after July 11, 1960 for full-time employment began before Oct. 1, 1956.

Subsecs. (b), (c). Pub. L. 94-397, § 1(b), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 94-397, § 1(b), (c), redesignated former subsec. (b) as (d) and, as so redesignated, struck out prohibition of application of subsec. to a Member appointed by the President to a position not requiring confirmation by the Senate.

Subsec. (e). Pub. L. 94-397, § 1(b), redesignated former subsec. (c) as (e).

1972—Subsec. (a). Pub. L. 92-297 substituted "section 8339(a), (b), (d), (e), (h), and (i)" for "section 8339(a), (b), (d), (g), and (h)", in subparagraph (A), and "section 8339(j) or section 8339(k)(2)" for "section 8339(i) or section 8339(j)(2)", in the sentence following clause (ii).

1971—Subsec. (a). Pub. L. 91-658 substituted provisions respecting reemployed annuitants and reduction in their annuity and increase in survivor annuity, notice to Commission of a desire not to increase the survivor annuity, increase in survivor annuity where annuitant dies while still reemployed, and redetermination of rights to survivor annuity where reemployment continued for five or more years upon election to deposit in the Fund, for prior provision that employment of an annuitant did not create an annuity for or affect the annuity of a survivor.

1970—Subsec. (c). Pub. L. 91-375 added subsec. (c).

EFFECTIVE DATE OF 1976 AMENDMENT

Section 2 of Pub. L. 94-397 provided that:

"(a) Except as provided under subsection (b) of this section, the amendments made by this Act [amending this section and section 8339 of this title] shall become effective on the date of the enactment of this Act [Sept. 3, 1976] or October 1, 1976, whichever is later, and shall apply to annuitants serving in appointive or elective positions on and after such date.

"(b) The amendment made by subsection (c) of the first section of this Act [amending subsec. (d) of this section] shall become effective on the date of the enactment of this Act [Sept. 3, 1976] or October 1, 1976, whichever is later, but shall not apply to any annuitant reemployed before such date."

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by Pub. L. 92-297 effective on the ninetieth day after May 16, 1972, see section 10 of Pub. L. 92-297, set out as a note under section 3381 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 5(d) of Pub. L. 91-658 provided that: "The amendment made by section 4 of this Act [to subsec. (a) of this section] shall apply only with respect to a reemployed annuitant whose employment terminates on or after the date of enactment of this Act [Jan. 8, 1971]."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-375 effective within 1 year after Aug. 12, 1970, on date established therefor by the Board of Governors of the United States Postal Service and published by it in the Federal Register, see section 15(a) of Pub. L. 91-375, set out as a note preceding section 101 of Title 39, Postal Service.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by section 1(83)(A), (D) of Pub. L. 90-83 effective as of Sept. 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

COMMISSION ON THE OPERATION OF THE SENATE

Pub. L. 94-252, Mar. 30, 1976, 90 Stat. 294, provided that: "On and after the date of the enactment of the joint resolution [Mar. 30, 1976], the provisions of section 8344 of title 5, United States Code, shall not apply to any individual serving as a member of the Commission on the Operation of the Senate."

CROSS REFERENCES

United States magistrates serving full-time not to suffer reduction of salary except as provided by this section, see section 634 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8339 of this title; title 11 section 68; title 22 sections 2386, 2512, 2584; title 28 sections 625, 634.

§ 8345. Payment of benefits; commencement, termination, and waiver of annuity

(a) Each annuity is stated as an annual amount, one-twelfth of which, fixed at the nearest dollar, constitutes the monthly rate payable on the first business day of the month after the month or other period for which it has accrued.

(b) Except as otherwise provided, the annuity of an employee or Member commences on the day after he is separated from the service, or on the day after his pay ceases and he meets the service and the age or disability requirements for title to annuity. An annuity payable from the Fund allowed after September 5, 1960, commences on the day after the occurrence of the event on which payment thereof is based.

(c) The annuity of a retired employee or Member terminates on the day death or other terminating event provided by this subchapter occurs. The annuity of a survivor terminates on the last day of the month before death or other terminating event occurs.

(d) An individual entitled to annuity from the Fund may decline to accept all or any part of the annuity by a waiver signed and filed with the Civil Service Commission. The waiver may be revoked in writing at any time. Payment of the annuity waived may not be made for the period during which the waiver was in effect.

(e) Payment due a minor, or an individual mentally incompetent or under other legal disability, may be made to the person who is constituted guardian or other fiduciary by the law of the State of residence of the claimant or is otherwise legally vested with the care of the claimant or his estate. If a guardian or other fiduciary of the individual under legal disability has not been appointed under the law of the State of residence of the claimant, payment may be made to any person who, in the judgment of the Commission, is responsible for the care of the claimant, and the payment bars recovery by any other person.

(f)(1) Notwithstanding any other provision of this subchapter, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section shall not be less than the smallest primary insurance amount, including any cost-of-living increases added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

(2) Notwithstanding any other provision of this subchapter, other than this subsection, the monthly rate of annuity payable under subsection (a) of this section to a surviving child shall not be less than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act, or three times such primary insurance amount divided by the number of surviving children entitled to an annuity, whichever is the lesser.

(3) The provisions of this subsection shall not apply to an annuitant or to a survivor who is or becomes entitled to receive from the United States an annuity or retired pay under any other civilian or military retirement system, benefits under title II of the Social Security Act, a pension, veterans' compensation, or any other periodic payment of a similar nature, when the monthly rate thereof, is equal to or greater than the smallest primary insurance amount, including any cost-of-living increase added to that amount, authorized to be paid from time to time under title II of the Social Security Act.

(g) The Commission shall prescribe regulations to provide that the amount of any monthly annuity payable under this section accruing for any month and which is computed with regard to service that includes any service referred to in section 8332(b)(6) performed by an individual prior to January 1, 1969, shall be reduced by the portion of any benefits under any State retirement system to which such individual is entitled (or on proper application would be entitled) for such month which is attributable to such service performed by such individual before such date.

(g) An individual entitled to an annuity from the Fund may make allotments or assignments of amounts from his annuity for such purposes as the Civil Service Commission in its sole discretion considers appropriate.

(h)(1) No payment shall be made from the Fund unless an application for benefits based on the service of an employee or Member is received in the Civil Service Commission before the one hundred and fifteenth anniversary of his birth.

(2) Notwithstanding paragraph (1) of this subsection, after the death of an employee, Member, or annuitant, no benefit based on his service shall be paid from the Fund unless an application therefor is received in the Civil Service Commission within 30 years after the death or other event which gives rise to title to the benefit.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 582; Pub. L. 93-273, § 1, Apr. 26, 1974, 88 Stat. 93; Pub. L. 94-126, § 1(c), Nov. 12, 1975, 89 Stat. 679; Pub. L. 94-166, § 1, Dec. 23, 1975, 89 Stat. 1002; Pub. L. 94-183, § 1, Dec. 31, 1975, 89 Stat. 1057.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2264	July 31, 1946, ch. 804, § 401 "Sec. 14", 70 Stat. 757. Sept. 6, 1960, Pub. L. 86-713, § 1(b), 74 Stat. 814.

In subsection (b), the second sentence of former section 2264(b) is omitted as included in the second sentence of the revised subsection. The words "after September 5, 1960" are substituted for "on or after September 6, 1960".

In subsection (c), the first sentence of former section 2264(c) is omitted as covered by the remainder of the subsection. The words "on or after September 6, 1960" are omitted as obsolete.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Title II of the Social Security Act, referred to in subsec. (f), is classified subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare.

AMENDMENTS

1975—Subsec. (g). Pub. L. 94-166 added subsec. (g) authorizing allotment or assignment of amounts from annuities.

Pub. L. 94-126 added subsec. (g) relating to the crediting of National Guard technician service in connection with civil service retirement.

Subsec. (h). Pub. L. 94-183 added subsec. (h).

1974—Subsec. (f). Pub. L. 93-273 added subsec. (f).

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-126 effective as of Jan. 1, 1969, applicable to a person who, on Nov. 12, 1975, is receiving or is entitled to receive benefits under any Federal retirement system and requests in writing the application of the amendment to him by the office administering his retirement system, and additional benefits to commence Dec. 1, 1975, see section 3 of Pub. L. 94-126, set out as a note under section 8334 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Section 3 of Pub. L. 93-273 provided that: "This Act [enacting subsec. (f) of this section and enacting provisions set out as notes under this section and sections 8339 and 8341 of this title] shall become effective on the date of enactment [Apr. 26, 1974]. Annuity increases under this Act shall apply to annuities which commence before, on, or after the date of enactment of this Act, but no increase in annuity shall be paid for any period prior to the first day of the first month which begins on or after the ninetieth day after the date of enactment of this Act, or the date on which the annuity commences, whichever is later."

MONTHLY RATE OF MINIMUM ANNUITY

Section 2(c) of Pub. L. 93-273 provided that: "The monthly rate of an annuity resulting from an increase under this section [enacting provisions set out as notes under sections 8339 and 8341 of this title] shall be considered as the monthly rate of annuity payable under section 8345(a) of title 5, United States Code [subsec. (a) of this section], for purposes of computing the minimum annuity under section 8345(f) of title 5 [subsec. (f) of this section], as added by the first section of this Act."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8346 of this title.

§ 8346. Exemption from legal process; recovery of payments

(a) The money mentioned by this subchapter is not assignable, either in law or equity, except under the provisions of section 8345(g) of this title, or subject to execution, levy, attachment, garnishment, or other legal process, except as otherwise may be provided by Federal laws.

(b) Recovery of payments under this subchapter may not be made from an individual when, in the judgment of the Civil Service Commission, the individual is without fault and recovery would be against equity and good conscience. Withholding or recovery of money mentioned by this subchapter on account of a certification or payment made by a former employee of the United States in the discharge of his official duties may be made only if the head of the agency on behalf of which the certification or payment was made certifies to the Commission that the certification or payment involved fraud on the part of the former employee.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 583; Pub. L. 94-166, § 2, Dec. 23, 1975, 89 Stat. 1002.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2265	July 31, 1956, ch. 804, § 401 "Sec. 15", 70 Stat. 758.

In subsection (b), the words "Notwithstanding any other provision of law" are omitted as unnecessary. The second word of the second sentence "or" is substituted for "of" to correct a printing error.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

Section 8345(g), referred to in subsec. (a), means section 8345(g) of this title as added by Pub. L. 94-166, § 1, Dec. 23, 1975, 89 Stat. 1002 and not a prior section 8345(g) of this title as added by Pub. L. 94-126, § 1(c), Nov. 12, 1975, 89 Stat. 679.

AMENDMENTS

1975—Subsec. (a). Pub. L. 94-166 added "except under the provisions of section 8345(g) of this title," following "equity", and ", except as otherwise may be provided by Federal laws." following "process".

FEDERAL RULES OF CIVIL PROCEDURE

Execution to enforce judgment, see rule 69, Title 28, Appendix, Judiciary and Judicial Procedure.

§ 8347. Administration; regulations

(a) The Civil Service Commission shall administer this subchapter. Except as otherwise specifically provided herein, the Commission shall perform, or cause to be performed, such acts and prescribe such regulations as are necessary and proper to carry out this subchapter.

(b) Applications under this subchapter shall be in such form as the Commission prescribes. Agencies shall support the applications by such certificates as the Commission considers necessary to the determination of the rights of applicants. The Commission shall adjudicate all claims under this subchapter.

(c) The Commission shall determine questions of disability and dependency arising under this subchapter. The decisions of the Commission concerning these matters are final and conclusive and are not subject to review. The Commission may direct at any time such medical or other examinations as it considers necessary to determine the facts concerning disability or dependency of an individual receiving or applying for annuity under this subchapter. The Commission may suspend or deny annuity for failure to submit to examination.

(d) An administrative action or order affecting the rights or interests of an individual or of the United States under this subchapter may be appealed to the Commission under procedures prescribed by the Commission.

(e) The Commission shall fix the fees for examinations made under this subchapter by physicians or surgeons who are not medical officers of the United States. The fees and reasonable traveling and other expenses incurred in connection with the examinations are paid from appropriations for the cost of administering this subchapter.

(f) The Commission shall select three actuaries, to be known as the Board of Actuaries of the Civil Service Retirement System. The Commission shall fix the pay of the members of the Board, except members otherwise in the employ of the United States. The Board shall report annually on the actuarial status of the System and furnish its advice and opinion on matters referred to it by the Commission. The Board may recommend to the Commission and to Congress such changes as in the Board's judgment are necessary to protect the public interest and maintain the System on a sound financial basis. The Commission shall keep, or cause to be kept, such records as it considers necessary for making periodic actuarial valuations of the System. The Board shall make actuarial valuations every 5 years, or oftener if considered necessary by the Commission.

(g) The Commission may exclude from the operation of this subchapter an employee or group of employees in or under an Executive agency whose employment is temporary or intermittent.

(h) The Commission, on recommendation by the Commissioner of the District of Columbia, may exclude from the operation of this subchapter an individual or group of individuals employed by the government of the District of Columbia whose employment is temporary or intermittent.

(i) The Architect of the Capitol may exclude from the operation of this subchapter an employee under the Office of the Architect of the Capitol whose employment is temporary or of uncertain duration.

(j) The Librarian of Congress may exclude from the operation of this subchapter an employee under the Library of Congress whose employment is temporary or of uncertain duration.

(k) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this subchapter to an individual named by section 8331(1)(F) of this title.

(*l*) The Director or Acting Director of the Botanic Garden may exclude from the operation of this subchapter an employee under the Botanic Garden whose employment is temporary or of uncertain duration.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 583; Pub. L. 90-83, § 1(84), Sept. 11, 1967, 81 Stat. 218; Pub. L. 90-623, § 1(22), Oct. 22, 1968, 82 Stat. 1313.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(f)	5 U.S.C. 2266 (less (f)).	July 31, 1956, ch. 804, § 401 "Sec. 16 (less (f))", 70 Stat. 758.
(g)-(k)	5 U.S.C. 2252 (e), (f) (words after semicolon), (h) (1).	July 31, 1956, ch. 804, § 401 "Sec. 2(e), (f) (words after semicolon)", 70 Stat. 745. July 1, 1960, Pub. L. 86-568, § 115(b) (1) "(h) (1)", 74 Stat. 302.

In subsection (a), the words "to carry out this subchapter" are substituted for "for the purpose of carrying the provisions of this chapter into full force and effect".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8347(*l*)	5 App.: 2252(f)	Sept. 26, 1966, Pub. L. 89-604, § 1(c), 80 Stat. 847.

AMENDMENTS

1968—Subsec. (h). Pub. L. 90-623 substituted "Commissioner" for "Commissioners".

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90-623 intended to restate without substantive change the law in effect on Oct. 22, 1968, see section 6 of Pub. L. 90-623, set out as a note under section 5334 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8331 of this title.

§ 8348. Civil Service Retirement and Disability Fund

(a) There is a Civil Service Retirement and Disability Fund. The Fund—

(1) is appropriated for the payment of—

(A) benefits as provided by this subchapter; and

(B) administrative expenses incurred by the Civil Service Commission in placing in effect each annuity adjustment granted under section 8340 of this title; and

(2) is made available, subject to such annual limitation as the Congress may prescribe, for any expenses incurred by the Commission in connection with the administration of this chapter and other retirement and annuity statutes.

(b) The Secretary of the Treasury may accept and credit to the Fund money received in the form of a donation, gift, legacy, or bequest, or otherwise contributed for the benefit of civil-service employees generally.

(c) The Secretary shall immediately invest, in interest-bearing securities of the United States such currently available portions of the Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

(d) The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are extended to authorize the issuance at par of public-debt obligations for purchase by the Fund. The obligations issued for purchase by the Fund shall have maturities fixed with due regard for the needs of the Fund and bear interest at a rate equal to the average market yield computed as of the end of the calendar month next preceding the date of the issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt which are not due or callable until after the expiration of 4 years from the end of that calendar month. If the average market yield is not a multiple of ⅛ of 1 percent, the rate of interest on the obligations shall be the multiple of ⅛ of 1 percent nearest the average market yield.

(e) The Secretary may purchase other interest-bearing obligations of the United States, or obligations guaranteed as to both principal and interest by the United States, on original issue or at the market price only if he determines that the purchases are in the public interest.

(f) Any statute which authorizes—

(1) new or liberalized benefits payable from the Fund, including annuity increases other than under section 8340 of this title;

(2) extension of the coverage of this subchapter to new groups of employees; or

(3) increases in pay on which benefits are computed;

is deemed to authorize appropriations to the Fund to finance the unfunded liability created by that statute, in 30 equal annual installments with interest computed at the rate used in the then most recent valuation of the Civil Service Retirement System and with the first payment thereof due as of the end of the fiscal year in which each new or liberalized benefit, extension of coverage, or increase in pay is effective.

(g) At the end of each fiscal year, the Commission shall notify the Secretary of the Treasury of the amount equivalent to (1) interest on the unfunded liability computed for that year at the interest rate used in the then most recent valuation of the System, and (2) that portion of disbursement for annuities for that year which the Commission estimates is attributable to credit allowed for military service. Before closing the accounts for each fiscal year, the Secretary shall credit to the Fund, as a Government contribution, out of any money in the Treasury of the United States not otherwise appropriated, the following percentages of such amounts; 10 percent for 1971; 20 percent for 1972; 30 percent for 1973; 40 percent for 1974; 50 percent for 1975; 60 percent for 1976; 70 percent for 1977; 80 percent for 1978; 90 percent for 1979; and 100 percent for 1980 and for each fiscal year thereafter. The Commission shall report to the President and to the Congress the sums credited to the Fund under this subsection.

(h)(1) Notwithstanding any other statute, the United States Postal Service shall be liable for that portion of any estimated increase in the unfunded liability of the Fund which is attributable to any benefits payable from the Fund to active and retired Postal Service officers and employees, and to their survivors, when the increase results from an employee-management agreement under title 39, or any administrative action by the Postal Service taken pursuant to law, which authorizes increases in pay on which benefits are computed.

(2) The estimated increase in the unfunded liability, referred to in paragraph (1) of this subsection, shall be determined by the Civil Service Commission. The United States Postal Service shall pay the amount so determined to the Commission in 30 equal annual installments with interest computed at the rate used in the most recent valuation of the Civil Service Retirement System, with the first payment thereof due at the end of the fiscal year in which an increase in pay becomes effective.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 584; Pub. L. 90-83, § 1(85), Sept. 11, 1967, 81 Stat. 218; Pub. L. 91-93, title I, § 103(a), Oct. 20, 1969, 83 Stat. 137; Pub. L. 93-349, § 1, July 12, 1974, 88 Stat. 354; Pub. L. 94-183, § 2(37), Dec. 31, 1975, 89 Stat. 1058.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(f)	5 U.S.C. 2267	July 31, 1956, ch. 804, § 401 "Sec. 17", 70 Stat. 759. Oct. 4, 1961, Pub. L. 87-350, § 1(a), 75 Stat. 770.
(g)	[Uncodified]	Aug. 28, 1958, Pub. L. 85-844, § 101 (par. under "Civil Service Retirement and Disability Fund"), 72 Stat. 1064.

In subsection (a), the first sentence is based on former section 2251(f), which is carried into section 8331.

In subsection (f), the words "to carry out this subchapter" are substituted for "to continue this chapter in full force and effect".

In subsection (g), the words "after the enactment of this Act" are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8348(a)	5 App.: 2267 (a)	Sept. 27, 1965, Pub. L. 89-205, § 1(b), 79 Stat. 840.

The change in subsection (f) is made for uniformity in style and because the full title of the Commission appears in subsection (a).

REFERENCES IN TEXT

The Second Liberty Bond Act, as amended, referred to in subsec. (d), is act Sept. 24, 1917, ch. 56, 40 Stat. 288, as amended, and is classified to section 745, former section 747, sections 752, 752a, 753, 754, 754a, 754b, 757, 757b, and 757c, former section 757c-1, sections 757c-2, 757c-3, 757c-4, 757d, 757e, 758, 760, and 764, former section 765 and sections 766, 769, 771, 773, 774 and 801 of Title 31, Money and Finance.

AMENDMENTS

1975—Subsec. (h)(2). Pub. L. 94-183 substituted "30" for "thirty".

1974—Subsec. (h). Pub. L. 93-349 added subsec. (h).

1969—Subsec. (a). Pub. L. 91-93, § 103(a)(1), designated existing provisions as par. (1)(A) and (B) and added par. (2).

Subsec. (f). Pub. L. 91-93, § 103(a)(2), added a new subsec. (f) and struck out prior requirement that Commission submit estimates of appropriations necessary to finance the Fund on a normal cost plus interest basis and to carry out this subchapter.

Subsec. (g). Pub. L. 91-93, § 103(a)(2), added a new subsec. (g) and struck out prior restriction against use of Fund money to pay an increase in annuity benefits or a new annuity benefit under this subchapter or an earlier statute without an appropriation being made to the Fund in a sufficient amount to prevent an immediate increase in the unfunded accrued liability of the Fund.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-349 effective July 1, 1971, except that the Postal Service shall not be required to make (1) the payments due June 30, 1972, June 30, 1973, and June 30, 1974, attributable to pay increases granted by the Postal Service prior to July 1, 1973, until such time as funds are appropriated to the Postal Service for that purpose, and (2) the transfer to the Civil Service Retirement and Disability Fund required by title II of the Treasury, Postal Service, and General Government Appropriation Act, 1974, Public Law 93-143, see section 3 of Pub. L. 93-349, set out as a note under section 1005 of Title 39, Postal Service.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 103(b)(1) of Pub. L. 91-93 provided that: "The provisions of subsection (g) of section 8348 of title 5, United States Code [subsec. (g) of this section], as contained in the amendment made by subsection (a)(2) of this section [adding such subsec. (g)], shall become effective at the beginning of the fiscal year which ends on June 30, 1971."

STATUS OF ORIGINAL SUBSEC. (g) PROVISIONS DURING PERIOD FROM OCT. 20, 1969 TO JUNE 30, 1970

Section 103(b)(2) of Pub. L. 91-93 provided that: "Paragraph (1) of this subsection [set out as Effective Date of 1969 Amendment note under this section], shall not be held or considered to continue in effect after the enactment of this Act [Oct. 20, 1969], the provisions of section 8348(g) of title 5, United States Code, as in effect immediately prior to such enactment [former subsec. (g) of this section]."

INAPPLICABILITY TO BENEFITS UNDER PUB. L. 89-737 OF PROHIBITION AGAINST PAYMENT OF INCREASED ANNUITY BENEFIT WITHOUT COMPENSATING APPROPRIATION

Section 3 of Pub. L. 89-737, Nov. 2, 1966, 80 Stat. 1164, provided that: "Section 8348(g) of title 5, United States Code [subsec. (g) of this section], does not apply with respect to annuity benefits resulting from the enactment of this Act [amending sections 8114(e), 8331(3), and 8704(c) of this title and section 1117(d) of Title 5, Executive Departments and Government Officers and Employees]."

REDEMPTION OF OBLIGATIONS HELD PRIOR TO OCT. 4, 1961; REINVESTMENT OF PROCEEDS

Pub. L. 87-350, § 1(b) Oct. 4, 1961, 75 Stat. 770, provided that: "All special issues in which the civil service retirement and disability fund is invested in accordance with section 17(d) of the Civil Service Retirement Act [now subsecs. (d) and (e) of this section] as in effect prior to the enactment of this Act [Oct. 4, 1961] shall be redeemed and the moneys reinvested by the Secretary of the Treasury, as nearly as may be practicable, in equal annual amounts over the period of ten calendar years beginning with the calendar year 1962, in accordance with such section 17(d), as amended by subsection (a) of this section."

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8331 of this title; title 20 section 125; title 25 section 450i; title 39 section 1005.

SECTION REFERRED TO IN D.C. CODE

This section is referred to in section 4-522 of the District of Columbia Code.

CHAPTER 85—UNEMPLOYMENT COMPENSATION

SUBCHAPTER I—EMPLOYEES GENERALLY

Sec.
8501. Definitions.
8502. Compensation under State agreement.
8503. Compensation absent State agreement.
8504. Assignment of Federal service and wages.
8505. Payments to States.
8506. Dissemination of information.
8507. False statements and misrepresentations.
8508. Regulations.

SUBCHAPTER II—EX-SERVICEMEN
8521. Definitions; application.
8522. Assignment of Federal service and wages.
8523. Dissemination of information.
[8524. Repealed.]
8525. Effect on other statutes.

AMENDMENTS

1975—Pub. L. 94-183, § 2(42), Dec. 31, 1975, 89 Stat. 1059, substituted "Repealed" for "Accrued leave", in item 8524.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in title 18 section 1919; title 19 section 2319.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in section 46-307 of the District of Columbia Code.

SUBCHAPTER I—EMPLOYEES GENERALLY

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in sections 3373, 8521 of this title; title 39 section 1005.

§ 8501. Definitions

For the purpose of this subchapter—

(1) "Federal service" means service performed after 1952 in the employ of the United States or an instrumentality of the United States which is wholly or partially owned by the United States, but does not include service (except service to which subchapter II of this chapter applies) performed—

(A) by an elective official in the executive or legislative branch;

(B) as a member of the armed forces;

(C) by Foreign Service personnel for whom special separation allowances are provided under chapter 14 of title 22;

(D) outside the United States, the Commonwealth of Puerto Rico, and the Virgin Islands by an individual who is not a citizen of the United States;

(E) by an individual excluded by regulations of the Civil Service Commission from the operation of subchapter III of chapter 83 of this title because he is paid on a contract or fee basis;

(F) by an individual receiving nominal pay and allowances of $12 or less a year;

(G) in a hospital, home, or other institution of the United States by a patient or inmate thereof;

(H) by a student-employee as defined by section 5351 of this title;

(I) by an individual serving on a temporary basis in case of fire, storm, earthquake, flood, or other similar emergency;

(J) by an individual employed under a Federal relief program to relieve him from unemployment;

(K) as a member of a State, county, or community committee under the Agricultural Stabilization and Conservation Service or of any other board, council, committee, or other similar body, unless the board, council, committee, or other body is composed exclusively of individuals otherwise in the full-time employ of the United States; or

(L) by an officer or a member of the crew on or in connection with an American vessel—

(i) owned by or bareboat chartered to the United States; and

(ii) whose business is conducted by a general agent of the Secretary of Commerce;

if contributions on account of the service are required to be made to an unemployment fund under a State unemployment compensation law under section 3305(g) of title 26;

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service;

(3) "Federal employee" means an individual who has performed Federal service;

(4) "compensation" means cash benefits payable to an individual with respect to his unemployment including any portion thereof payable with respect to dependents;

(5) "benefit year" means the benefit year as defined by the applicable State unemployment compensation law, and if not so defined the term means the period prescribed in the agreement under this subchapter with a State or, in the absence of such an agreement, the period prescribed by the Secretary of Labor;

(6) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands;

(7) "United States", when used in a geographical sense, means the States; and

(8) "base period" means the base period as defined by the applicable State unemployment compensation law for the benefit year.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 585; Pub. L. 94-566, title I, § 116(e)(1), title II, § 214(b), Oct. 20, 1976, 90 Stat. 2672, 2678.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1361	Sept. 1, 1954, ch. 1212, § 4(a) "Sec. 1501", 68 Stat. 1130. Aug. 28, 1958, Pub. L. 85-848, § 2, 72 Stat. 1087. July 12, 1960, Pub. L. 86-624, § 30(g), 74 Stat. 420. Sept. 13, 1960, Pub. L. 86-778, §§ 531(e), 542(d), 74 Stat. 984, 986.

Clause (4) of former section 1361(a) is omitted as obsolete.

In paragraph (1)(A), the word "official" is substituted for "officer" because of the definition of "officer" in section 2104. The words "of the Government of the United States" are omitted as unnecessary.

In paragraph (1)(E), the words "by regulations of the Civil Service Commission from the operation of subchapter III of chapter 83 of this title" are substituted for "by Executive order from the operation of the Civil Service Retirement Act of 1930" on authority of the Civil Service Retirement Act Amendments of 1956, which are carried into subchapter III of chapter 83.

In paragraph (1)(K), the words "Agricultural Stabilization and Conservation Service" are substituted for "Production and Marketing Administration" on authority of Secretary's memorandum 1320, supp. 4 of November 2, 1953.

In paragraph (1)(L), the words "section 1606(g) of Title 26, Internal Revenue Code of 1939" in former section 1361(a)(13) are omitted as obsolete.

The last sentence of former section 1361 is omitted as its substance is included in paragraph (1)(D).

Former section 1361(f) is omitted as unnecessary as the full title of the Secretary of Labor is set out the first time it is used in each section.

Paragraphs (6) and (7) are added on authority of section 1101(a)(1), (2) of the Act of Aug. 14, 1935, ch. 531, 49 Stat. 647, as amended; 42 U.S.C. 1301(a)(1), (2).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1976—Par. (6). Pub. L. 94-566, § 116(e)(1), added the Virgin Islands in the definition of "State".

Par. (8). Pub. L. 94-566, § 214(b), added par. (8).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-566 applicable with respect to benefit years beginning on or after the later of Oct. 1, 1976, or the first day of the first week for which compensation becomes payable under an unemployment compensation law of the Virgin Islands which is approved by the Secretary of Labor under section 3304(a) of the Internal Revenue Code of 1954, see section 116(f)(3) of Pub. L. 94-566, set out as a note under section 3304 of Title 26, Internal Revenue Code.

Section 214(c) of Pub. L. 94-566 provided that: "The amendments made by this section [adding par. (8) of this section and amending section 8505(a) of this title] shall apply with regard to compensation paid on the basis of claims for compensation filed on or after July 1, 1977".

§ 8502. Compensation under State agreement

(a) The Secretary of Labor, on behalf of the United States, may enter into an agreement with a State, or with an agency administering the unemployment compensation law of a State, under which the State agency shall—

(1) pay, as agent of the United States, compensation under this subchapter to Federal employees; and

(2) otherwise cooperate with the Secretary and with other State agencies in paying compensation under this subchapter.

(b) The agreement shall provide that compensation will be paid by the State to a Federal employee in the same amount, on the same terms, and subject to the same conditions as the compensation which would be payable to him under the unemployment compensation law of the State if his Federal service and Federal wages assigned under section 8504 of this title to the State had been included as employment and wages under that State law.

[(c) Repealed. Pub. L. 90-83, § 1(86)(B), Sept. 11, 1967, 81 Stat. 218.]

(d) A determination by a State agency with respect to entitlement to compensation under an agreement is subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law, and only in that manner and to that extent.

(e) Each agreement shall provide the terms and conditions on which it may be amended or terminated.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 586; Pub. L. 90-83, § 1(86), Sept. 11, 1967, 81 Stat. 218.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1362	Sept. 1, 1954, ch. 1212, § 4(a) "Sec. 1502", 68 Stat. 1131. Sept. 13, 1960, Pub. L. 86-778, § 542(b)(1)(A), 74 Stat. 985.

In subsection (a), the words "under this subchapter" are substituted for "on the basis provided in subsection (b) of this section".

In subsection (b), the words "with respect to unemployment after December 31, 1954" are omitted as obsolete.

In subsection (c), the words "with respect to unemployment after December 31, 1960" are omitted as obsolete. In the last sentence, the application to section 8503(b) is omitted and carried into that section.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section amends 5 U.S.C. 8502 to eliminate certain provisions that are now obsolete. The obsolete provisions were based on section 542(b)(1)(A) of the act of September 13, 1960, 74 Stat. 985, that amended section 1502(b) of the Social Security Act effective January 1, 1961, but only in the case of weeks of unemployment beginning before January 1, 1966. Any existing rights are preserved by section 7 of this bill.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8507, 8523 of this title.

§ 8503. Compensation absent State agreement

(a) In the case of a Federal employee whose Federal service and Federal wages are assigned

under section 8504 of this title to a State which does not have an agreement with the Secretary of Labor, the Secretary, under regulations prescribed by him, shall, on the filing by the Federal employee of a claim for compensation under this subsection, pay compensation to him in the same amount, on the same terms, and subject to the same conditions as would be paid to him under the unemployment compensation law of the State if his Federal service and Federal wages had been included as employment and wages under that State law. However, if the Federal employee, without regard to his Federal service and Federal wages, has employment or wages sufficient to qualify for compensation during the benefit year under that State law, then payments of compensation under this subsection may be made only on the basis of his Federal service and Federal wages.

(b) A Federal employee whose claim for compensation under subsection (a) of this section is denied is entitled to a fair hearing under regulations prescribed by the Secretary. A final determination by the Secretary with respect to entitlement to compensation under this section is subject to review by the courts in the same manner and to the same extent as is provided by section 405(g) of title 42.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 587; Pub. L. 90-83, § 1(87), Sept. 11, 1967, 81 Stat. 218; Pub. L. 94-566, title I, § 116(e)(2), Oct. 20, 1976, 90 Stat. 2673.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1363	Sept. 1, 1954, ch. 1212, § 4(a) "Sec. 1503", 68 Stat. 1132. Sept. 13, 1960, Pub. L. 86-778, § 542(b)(1)(B), (C), (c)(1), 74 Stat. 986.

In subsections (a) and (b), the words "with respect to unemployment after December 31, 1954" are omitted as obsolete.

In subsection (b), the last sentence is added on authority of the last sentence of former section 1362(b), which section is carried into section 8502.

In subsection (c), the words "with respect to final decisions of the Secretary of Health, Education, and Welfare under subchapter II of this chapter" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8503(b)	[Uncodified]	Sept. 13, 1960, Pub. L. 86-778, § 542(a)(1), 74 Stat. 985.

This section also amends 5 U.S.C. 8503 to eliminate certain provisions that are now obsolete. The obsolete provisions were based on section 542(b)(1)(B) and (C) of the act of September 13, 1960, 74 Stat. 986, that amended section 1503 (a) and (b) of the Social Security Act effective January 1, 1961, but only in the case of weeks of unemployment beginning before January 1, 1966. Any existing rights are preserved by section 7 of this bill.

AMENDMENTS

1976—Subsec. (b). Pub. L. 94-566, § 116(e)(2), redesignated former subsec. (c) as (b) and in subsec. (b) as so redesignated substituted "subsection (a)" for "subsection (a) or (b)". Former subsec. (b) which made special provision for Federal employees whose Federal service and Federal wages were assigned to the Virgin Islands, was deleted.

Subsec. (c). Pub. L. 94-566, § 116(e)(2)(B), redesignated former subsec. (c) as (b).

Subsec. (d). Pub. L. 94-566, § 116(e)(2)(A), struck out subsec. (d) which authorized the Secretary to use the personnel and facilities of the agency in the Virgin Islands cooperating with the United States Employment Service.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-566 applicable with respect to benefit years beginning on or after the later of Oct. 1, 1976, or the first day of the first week for which compensation becomes payable under an unemployment compensation law of the Virgin Islands which is approved by the Secretary of Labor under section 3304(a) of the Internal Revenue Code of 1954, see section 116(f)(3) of Pub. L. 94-566, set out as a note under section 3304 of Title 26, Internal Revenue Code.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8507, 8523 of this title.

§ 8504. Assignment of Federal service and wages

Under regulations prescribed by the Secretary of Labor, the Federal service and Federal wages of a Federal employee shall be assigned to the State in which he had his last official station in Federal service before the filing of his first claim for compensation for the benefit year. However—

(1) if, at the time of filing his first claim, he resides in another State in which he performed, after the termination of his Federal service, service covered under the unemployment compensation law of the other State, his Federal service and Federal wages shall be assigned to the other State; and

(2) if his last official station in Federal service, before filing his first claim, was outside the United States, his Federal service and Federal wages shall be assigned to the State where he resides at the time he files his first claim.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 588; Pub. L. 90-83, § 1(88), Sept. 11, 1967, 81 Stat. 218; Pub. L. 94-566, title I, § 116(e)(3), Oct. 20, 1976, 90 Stat. 2673.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	4 2 U.S.C. 1364	Sept. 1, 1954, ch. 1212, § 4(a) "Sec. 1504", 68 Stat. 1133. Sept. 13, 1960, Pub. L. 86-778, § 542(b)(2), 74 Stat. 986.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 Act

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8504(3)	[Uncodified]	Sept. 13, 1960, Pub. L. 86-778, § 542(a)(2), 74 Stat. 985.

This section also amends 5 U.S.C. 8504 to eliminate certain provisions that are now obsolete. The obsolete provisions were based on section 542(b)(2) of the act of September 13, 1960, 74 Stat. 986, that amended section 1504 of the Social Security Act effective January 1, 1961, but only in the case of first claims filed before January 1, 1966. Any existing rights are preserved by section 7 of this bill.

Amendments

1976—Par. (3). Pub. L. 94-566 struck out par. (3) which covered the assignment to the Virgin Islands of the Federal service and Federal wages of Federal employees whose first claims were filed while residing in the Virgin Islands.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-566 applicable with respect to benefit years beginning on or after the later of Oct. 1, 1976, or the first day of the first week for which compensation becomes payable under an unemployment compensation law of the Virgin Islands which is approved by the Secretary of Labor under section 3304(a) of the Internal Revenue Code of 1954, see section 116(f)(3), set out as a note under section 3304 of Title 26, Internal Revenue Code.

Section Referred to in Other Sections

This section is referred to in sections 8502, 8503, 8522 of this title.

§ 8505. Payments to States

(a) Each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages.

(b) Each State shall be paid, either in advance or by way of reimbursement, as may be determined by the Secretary of Labor, the sum that the Secretary estimates the State is entitled to receive under this subchapter for each calendar month. The sum shall be reduced or increased by the amount which the Secretary finds that his estimate for an earlier calendar month was greater or less than the sum which should have been paid to the State. An estimate may be made on the basis of a statistical, sampling, or other method agreed on by the Secretary and the State agency.

(c) The Secretary, from time to time, shall certify to the Secretary of the Treasury the sum payable to each State under this section. The Secretary of the Treasury, before audit or settlement by the General Accounting Office, shall pay the State in accordance with the certification from the funds for carrying out the purposes of this subchapter.

(d) Money paid a State under this subchapter may be used solely for the purposes for which it is paid. Money so paid which is not used for these purposes shall be returned, at the time specified by the agreement, to the Treasury of the United States and credited to current applicable appropriations, funds, or accounts from which payments to States under this subchapter may be made.

(e) An agreement may—

(1) require each State officer or employee who certifies payments or disburses funds under the agreement, or who otherwise participates in its performance, to give a surety bond to the United States in the amount the Secretary considers necessary; and

(2) provide for payment of the cost of the bond from funds for carrying out the purposes of this subchapter.

(f) In the absence of gross negligence or intent to defraud the United States, an individual designated by the Secretary, or designated under an agreement, as a certifying official is not liable for the payment of compensation certified by him under this subchapter.

(g) In the absence of gross negligence or intent to defraud the United States, a disbursing official is not liable for a payment by him under this subchapter if it was based on a voucher signed by a certifying official designated as provided by subsection (f) of this section.

(h) For the purpose of payments made to a State under subchapter III of chapter 7 of title 42, administration by a State agency under an agreement is deemed a part of the administration of the State unemployment compensation law.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 588; Pub. L. 94-566, title II, § 214(a), Oct. 20, 1976, 90 Stat. 2678.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1366	Sept. 1, 1954, ch. 1212, § 4(a) "Sec. 1506", 68 Stat. 1133.

In the first sentence of subsection (d), the word "may" is substituted for "shall" since the sentence does not direct the use of the money, rather it limits the purposes for which the money may be used.

In subsections (f) and (g), the word "official" is substituted for "officer" because of the definition of "officer" in section 2104.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1976—Subsec. (a). Pub. L. 94-566 substituted provisions that each State is entitled to be paid by the United States with respect to each individual whose base period wages included Federal wages an amount which shall bear the same ratio to the total amount of compensation paid to such individual as the amount of his Federal wages in his base period bears to the total amount of his base period wages for provisions that each State is entitled to be paid by the United States an amount equal to the additional cost to the State of payments of compensation in accordance with an agreement under this subchapter which would not have been made by the State but for the agreement.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-566 applicable with regard to compensation paid on the basis of claims for compensation filed on or after July 1, 1977, see section 214(c) of Pub. L. 94-566, set out as a note under section 8501 of this title.

§ 8506. Dissemination of information

(a) Each agency of the United States and each wholly or partially owned instrumentality of the United States shall make available to State agencies which have agreements under this subchapter, or to the Secretary of Labor, as the case may be, such information concerning the Federal service and Federal wages of a Federal employee as the Secretary considers practicable and necessary for the determination of the entitlement of the Federal employee to compensation under this subchapter. The information shall include the findings of the employing agency concerning—

(1) whether or not the Federal employee has performed Federal service;

(2) the periods of Federal service;

(3) the amount of Federal wages; and

(4) the reasons for termination of Federal service.

The employing agency shall make the findings in the form and manner prescribed by regulations of the Secretary. The regulations shall include provision for correction by the employing agency of errors and omissions. This subsection does not apply with respect to Federal service and Federal wages covered by subchapter II of this chapter.

(b) The agency administering the unemployment compensation law of a State shall furnish the Secretary such information as he considers necessary or appropriate in carrying out this subchapter. The information is deemed the report required by the Secretary for the purpose of section 503(a)(6) of title 42.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 589; Pub. L. 94-566, title III, § 313(a), Oct. 20, 1976, 90 Stat. 2680.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1367	Sept. 1, 1954, ch. 1212, § 4(a) "Sec. 1507", 68 Stat. 1134. Aug. 28, 1958, Pub. L. 85-848, § 4, 72 Stat. 1089. Sept. 13, 1960, Pub. L. 86-778, § 531(f), 74 Stat. 984.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1976—Subsec. (a). Pub. L. 94-566 struck out provision that findings made in accordance with the Secretary's regulations were final and conclusive for the purpose of sections 8502(d) and 8503(c) of this title.

Effective Date of 1976 Amendment

Section 313(b) of Pub. L. 94-566 provided that: "The amendment made by subsection (a) [amending subsec. (a) of this section] shall apply with respect to findings made after the date of the enactment of this Act [Oct. 20, 1976]."

§ 8507. False statements and misrepresentations

(a) If a State agency, the Secretary of Labor, or a court of competent jurisdiction finds that an individual—

(1) knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact; and

(2) as a result of that action has received an amount as compensation under this subchapter to which he was not entitled;

the individual shall repay the amount to the State agency or the Secretary. Instead of requiring repayment under this subsection, the State agency or the Secretary may recover the amount by deductions from compensation payable to the individual under this subchapter during the 2-year period after the date of the finding. A finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing, subject to such further review as may be appropriate under sections 8502(d) and 8503(c) of this title.

(b) An amount repaid under subsection (a) of this section shall be—

(1) deposited in the fund from which payment was made, if the repayment was to a State agency; or

(2) returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Secretary.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 590.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1368(b)	Sept. 1, 1954, ch. 1212, § 4(a), "Sec. 1508(b)", 68 Stat. 1135.

In subsection (a), the words "as the case may be", "be liable to", and "of any amount" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8508. Regulations

The Secretary of Labor may prescribe rules and regulations necessary to carry out this subchapter and subchapter II of this chapter. The Secretary, insofar as practicable, shall consult with representatives of the State unemployment compensation agencies before prescribing rules or regulations which may affect the performance by the State agencies of functions under agreements under this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 590.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1369	Sept. 1, 1954, ch. 1212, § 4(a) "Sec. 1509", 68 Stat. 1135.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SUBCHAPTER II—EX-SERVICEMEN

Subchapter Referred to in Other Sections

This subchapter is referred to in sections 8501, 8506, 8508 of this title.

§ 8521. Definitions; application

(a) For the purpose of this subchapter—

(1) "Federal service" means active service, including active duty for training purposes, in the armed forces which either began after January 31, 1955, or terminated after October 27, 1958, if—

(A) that service was continuous for 90 days or more, or was terminated earlier because of an actual service-incurred injury or disability; and

(B) with respect to that service, the individual—

(i) was discharged or released under conditions other than dishonorable; and

(ii) was not given a bad conduct discharge, or, if an officer, did not resign for the good of the service;

(2) "Federal wages" means all pay and allowances, in cash and in kind, for Federal service, computed on the basis of the pay and allowances for the pay grade of the individual at the time of his latest discharge or release from Federal service as specified in the schedule applicable at the time he files his first claim for compensation for the benefit year. The Secretary of Labor shall issue, from time to time, after consultation with the Secretary of Defense, schedules specifying the pay and allowances for each pay grade of servicemen covered by this subchapter, which reflect representative amounts for appropriate elements of the pay and allowances whether in cash or in kind; and

(3) "State" means the several States, the District of Columbia, the Commonwealth of Puerto Rico, and the Virgin Islands.

(b) The provisions of subchapter I of this chapter, subject to the modifications made by this subchapter, apply to individuals who have had Federal service as defined by subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 590; Pub. L. 90-83, § 1(89), Sept. 11, 1967, 81 Stat. 218; Pub. L. 94-566, title I, § 116(e)(4), Oct. 20, 1976, 90 Stat. 2673.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1371 (a)-(c)	Aug. 28, 1958, Pub. L. 85-848, § 3 "Sec. 1511(a)-(c)", 72 Stat. 1088.

In subsection (a)(1), the words "armed forces" are coextensive with and substituted for "Army, Navy, Air Force, Marine Corps, or Coast Guard of the United States" in view of the definition of "armed forces" in section 2101. The words "after October 27, 1958" are substituted for "after the sixtieth day after August 28, 1958".

In subsection (b), the words "with respect to weeks of unemployment ending after the sixtieth day after August 28, 1958" are omitted as obsolete because the law is here stated with prospective effect.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This incorporates into 5 U.S.C. 8521 the definition of "State" which is applicable to the source statute of that section by virtue of section 1301(a)(1) of title 42.

AMENDMENTS

1976—Subsec. (a)(3). Pub. L. 94-566 added the Virgin Islands to the definition of "State".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-566 applicable with respect to benefit years beginning on or after the later of Oct. 1, 1976, or the first day of the first week for which compensation becomes payable under an unemployment compensation law of the Virgin Islands which is approved by the Secretary of Labor under section 3304(a) of the Internal Revenue Code of 1954, see section 116(f)(3) of Pub. L. 94-566, set out as a note under section 3304 of Title 26, Internal Revenue Code.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-83 effective as of September 6, 1966, for all purposes, see section 9(h) of Pub. L. 90-83, set out as a note under section 5102 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8523 of this title.

§ 8522. Assignment of Federal service and wages

Notwithstanding section 8504 of this title, Federal service and Federal wages not previously assigned shall be assigned to the State in which the claimant first files claim for unemployment compensation after his latest discharge or release from Federal service. This assignment is deemed as assignment under section 8504 of this title for the purpose of this subchapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 591; Pub. L. 94-566, title I, § 116(e)(5), Oct. 20, 1976, 90 Stat. 2673.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1371(e)	Aug. 28, 1958, Pub. L. 85-848, § 3 "Sec. 1511(e)", 72 Stat. 1088. Sept. 13, 1960, Pub. L. 86-778, § 542(c) (2), 74 Stat. 986.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1976—Pub. L. 94-566 struck out "or to the Virgin Islands, as the case may be," following "shall be assigned to the State".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-566 applicable with respect to benefit years beginning on or after the later of Oct. 1, 1976, or the first day of the first week for which compensation becomes payable under an unemployment compensation law of the Virgin Islands which is approved by the Secretary of Labor under section 3304(a) of the Internal Revenue Code of 1954, see section 116(f)(3) of Pub. L. 94-566, set out as a note under section 3304 of Title 26, Internal Revenue Code.

§ 8523. Dissemination of information

(a) When designated by the Secretary of Labor, an agency of the United States shall make available to the appropriate State agency or to the Secretary, as the case may be, such information, including findings in the form and manner prescribed by regulations of the Secretary, as the Secretary considers practicable and necessary for the determination of the entitlement of an individual to compensation under this subchapter.

(b) Subject to correction of errors and omissions as prescribed by regulations of the Secretary, the following are final and conclusive for the purpose of sections 8502(d) and 8503(c) of this title:

(1) Findings by an agency of the United States made in accordance with subsection (a) of this section with respect to—

(A) whether or not an individual has met any condition specified by section 8521(a)(1) of this title;

(B) the periods of Federal service; and

(C) the pay grade of the individual at the time of his latest discharge or release from Federal service.

(2) The schedules of pay and allowances prescribed by the Secretary under section 8521(a)(2) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 591.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1371(d)	Aug. 28, 1958, Pub. L. 85-848, § 3 "Sec. 1511(d)", 72 Stat. 1088.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

[§ 8524. Repealed. Pub. L. 91-373, title I, § 107, Aug. 10, 1970, 84 Stat. 701.]

Section, Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 591, provided that a payment to ex-servicemen for unused accrued leave was to be deemed to continue the federal service during the period after the termination with respect to which the serviceman received the payment and that such payment was to be deemed federal wages subject to regulations concerning allocation over the period after termination.

EFFECTIVE DATE OF REPEAL

Section 107 of Pub. L. 91-373 provided in part that the repeal of this section is effective with respect to benefit years which begin more than 30 days after the date of enactment of Pub. L. 91-373, which was approved on Aug. 10, 1970.

§ 8525. Effect on other statutes

[(a) Repealed. Pub. L. 90-83, § 1(90), Sept. 11, 1967, 81 Stat. 219.]

(b) An individual is not entitled to compensation under this subchapter for any period with respect to which he receives—

(1) a subsistence allowance under chapter 31 of title 38 or under part VIII of Veterans Regulation Numbered 1(a); or

(2) an educational assistance allowance under chapter 35 of title 38.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 591; Pub. L. 90-83, § 1(90), Sept. 11, 1967, 81 Stat. 219.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	42 U.S.C. 1371(g)-(i)	Aug. 28, 1958, Pub. L. 85-848, § 3 "Sec. 1511 (g)-(i)", 72 Stat. 1089. Sept. 2, 1958, Pub. L. 85-857, § 13(i) (3), 72 Stat. 1265.

In subsection (b), the words "an education and training allowance under subsection (a), (b), (c), or (d) of section 1632 of title 38" are omitted as obsolete. The authority to pay an education and training allowance under section 1632 of title 38 terminated on January 31, 1965, pursuant to section 1613(a) of title 38.

Section 1371(i) of title 42, providing that certain individuals are not entitled to unemployment compensation under the provisions of subchapter I of chapter 41 of title 38, is omitted as obsolete. Subchapter I of chapter 41 of title 38, which related to unemployment compensation for Korean conflict veterans, was repealed by the Act of Sept. 19, 1962, Pub. L. 87-675, 76 Stat. 558.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section deletes subsection (a) of 5 U.S.C. 8525. That subsection is now obsolete in view of the repeal, effective July 1, 1966, of chapter 43 of title 38, U.S.C., by Public Law 89-50, section 1(a) (79 Stat. 173).

CHAPTER 87—LIFE INSURANCE

Sec.
8701. Definition.
8702. Automatic coverage.
8703. Benefit certificate.
8704. Group insurance; amounts.
8705. Death claims; order of precedence; escheat.
8706. Termination of insurance.
8707. Employee deductions; withholding.
8708. Government contributions.
8709. Insurance policies.
8710. Reinsurance.
8711. Basic tables of premium rates.
8712. Annual accounting; special contingency reserve.
8713. Advisory committee.
8714. Employees' Life Insurance Fund.
8714a. Optional insurance.
8715. Jurisdiction of courts.
8716. Regulations.

AMENDMENTS

1967—Pub. L. 90-206, title IV, § 404(2), Dec. 16, 1967, 81 Stat. 648, added item 8714a.

Pub. L. 90-83, § 1(94), Sept. 11, 1967, 81 Stat. 219, substituted "Advisory committee" for "Advisors" in item 8713.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1104, 1308, 3373, 3374, 3582 of this title; title 2 sections 31b-5, 72a; title 20 section 125; title 22 section 2025; title 25 section 450i; title 28 sections 332, 627, 634; title 38 sections 4107, 4118; title 39 section 1005; title 42 section 2996d.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 4-832, 31-634, 31-635, 31-746, 31-1542, 31-1603, 31-1623 of the District of Columbia Code.

§ 8701. Definition

(a) For the purpose of this chapter, "employee" means—

(1) an employee as defined by section 2105 of this title;

(2) a Member of Congress as defined by section 2106 of this title;

(3) a Congressional employee as defined by section 2107 of this title;

(4) the President;

(5) an individual employed by the government of the District of Columbia;

(6) an individual employed by Gallaudet College;

(7) a United States Commissioner to whom subchapter III of chapter 83 of this title applies by operation of section 8331(1)(E) of this title;

(8) an individual employed by a county committee established under section 590h(b) of title 16; and

(9) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838);

but does not include—

(A) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(B) an employee who is not a citizen or national of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone; or

(C) an employee excluded by regulation of the Civil Service Commission under section 8716(b) of this title.

(b) Notwithstanding subsection (a) of this section, the employment of a teacher in the recess period between two school years in a position other than a teaching position in which he served immediately before the recess period does not qualify the individual as an employee for the purpose of this chapter. For the purpose of this subsection, "teacher" and "teaching position" have the meanings given them by section 901 of title 20.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 592; Pub. L. 91-418, § 3(a), Sept. 25, 1970, 84 Stat. 869; Pub. L. 93-160, § 1(a), Nov. 27, 1973, 87 Stat. 635.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	2 U.S.C. 126	Sept. 1, 1954, ch. 1208, § 603, 68 Stat. 1116.
	5 U.S.C. 2091(a) (1st sentence, less words between 6th and 7th commas), (b), (d) (1st sentence, less words between 1st and 2d commas).	Aug. 17, 1954, ch. 752, § 2(a) (1st sentence, less words between 6th and 7th commas), (b), 68 Stat. 736. Aug. 1, 1956, ch. 837, § 501(c) (1) (as applicable to § 2 (b)), 70 Stat. 882. Aug. 2, 1956, ch. 901, § 1, 70 Stat. 955. July 1, 1960, Pub. L. 86-568, § 115(c) "(d) (1st sentence, less words between 1st and 2d commas)". 74 Stat. 302. Aug. 31, 1964, Pub. L. 88-531 § 2, 78 Stat. 737.
	[Uncodified]	Aug. 25, 1958, Pub. L. 85-745, § 1(b) (last sentence, as applicable to the Federal Employees' Group Life Insurance Act of 1954), 72 Stat. 838.
(b)	5 U.S.C. 2358(c) (less applicability to the Civil Service Retirement Act).	July 17, 1959, Pub. L. 86-91, § 10(c) (less applicability to the Civil Service Retirement Act), 73 Stat. 217.

The definition of "Congressional employee" in section 2107 of this title includes an Official Reporter of Debates of the Senate and an individual employed by an Official Reporter of Debates of the Senate so that the inclusion of "a Congressional employee" in subsection (a)(3) provides the coverage for those individuals which was given by former section 126 of title 2.

The definition of "employee" in section 2105 of this title is broad enough to cover the officers and employees set out in former section 2091(a) with the exception of Members of Congress, the President, individuals employed either by the government of the District of Columbia or by Gallaudet College, and United States commissioners. Accordingly, these have been added specifically in paragraphs (2), (4), (5), (6), and (7).

In subsection (a) (B), the words "United States" are substituted for "a State of the United States or the District of Columbia".

Subsection (a)(C) is added for clarity.

In subsection (b), the last sentence is added on authority of former section 2351, which section is scheduled for transfer to section 901 of title 20.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

REFERENCES IN TEXT

The Act of August 25, 1958 (72 Stat. 838), referred to in subsec. (a)(9), is Pub. L. 85-745 and is set out as a note under section 102 of Title 3, The President.

AMENDMENTS

1973—Subsec. (a)(B). Pub. L. 93-160 excluded from definition of "employee" persons who are not nationals of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone.

1970—Subsec. (a)(B). Pub. L. 91-418 excluded from definition of "employee" a noncitizen employee whose permanent duty station is outside the Panama Canal Zone.

CROSS REFERENCES

Annual report to Congress by Civil Service Commission on the operation of this chapter, see section 1308 of this title.

International organizations, coverage of employees transferring to, see section 3582 of this title.

Secretary of Agriculture to prescribe regulations for this chapter covering county committee employees, see section 8716 of this title.

United States magistrates and necessary clerical and secretarial assistants employed in the offices of such fulltime magistrates deemed officers and employees in the Federal judicial branch within meaning of this chapter, see section 634 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8706, 8716 of this title.

§ 8702. Automatic coverage

(a) An employee is automatically insured on the date he becomes eligible for insurance and each policy of insurance purchased by the Civil Service Commission under this chapter shall provide for that automatic coverage.

(b) An employee desiring not to be insured shall give written notice to his employing office on a form prescribed by the Commission. If the notice is received before he has become insured, he shall not be insured. If the notice is received after he has become insured, his insurance stops at the end of the pay period in which the notice is received.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 593.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2094(a) (less 1st par.).	Aug. 17, 1954, ch. 752, § 5(a) (less 1st par.), 68 Stat. 738.

In subsection (a), the words "eligible for insurance" are coextensive with and substituted for "eligible under the terms of this chapter".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8703. Benefit certificate

The Civil Service Commission shall arrange to have each insured employee receive a certificate setting forth the benefits to which he is entitled, to whom the benefits are payable, to whom the claims shall be submitted, and summarizing the provisions of the policy principally affecting him. The certificate is issued instead of the certificate which the insurance company would otherwise be required to issue.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 593.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2098	Aug. 17, 1954, ch. 752, § 9, 68 Stat. 742.

The words "each insured employee" are coextensive with and substituted for "each employee insured under such policy".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8704. Group insurance; amounts

(a) An employee eligible for insurance is entitled to be insured for an amount of group life insurance, plus an equal amount of group accidental death and dismemberment insurance, in accordance with the following schedule, which schedule shall be automatically extended correspondingly by the amounts of increases in the annual rate of basic pay for positions at level II of the Executive Schedule under section 5313 of this title:

If annual pay is—			
Greater than—	*But not greater than—*	*The amount of group life insurance is—*	*The amount of group accidental death and dismemberment insurance is—*
0	$8,000	$10,000	$10,000
$8,000	9,000	11,000	11,000
9,000	10,000	12,000	12,000
10,000	11,000	13,000	13,000
11,000	12,000	14,000	14,000
12,000	13,000	15,000	15,000
13,000	14,000	16,000	16,000
14,000	15,000	17,000	17,000
15,000	16,000	18,000	18,000
16,000	17,000	19,000	19,000
17,000	18,000	20,000	20,000
18,000	19,000	21,000	21,000
19,000	20,000	22,000	22,000
20,000	21,000	23,000	23,000
21,000	22,000	24,000	24,000
22,000	23,000	25,000	25,000
23,000	24,000	26,000	26,000
24,000	25,000	27,000	27,000
25,000	26,000	28,000	28,000
26,000	27,000	29,000	29,000
27,000	28,000	30,000	30,000
28,000	29,000	31,000	31,000
29,000		32,000	32,000

(b) Subject to the conditions and limitations approved by the Civil Service Commission which are contained in the policy purchased by the Commission, the group accidental death and dismemberment insurance provides payment as follows:

Loss	*Amount payable*
For loss of life..................	Full amount shown in the schedule in subsection (a) of this section.
Loss of one hand or of one foot or loss of sight of one eye.	One-half the amount shown in the schedule in subsection (a) of this section.
Loss of two or more such members.	Full amount shown in the schedule in subsection (a) of this section.

For any one accident the aggregate amount of group accidental death and dismemberment insurance that may be paid may not exceed the amount shown in the schedule in subsection (a) of this section.

(c) The Commission shall prescribe regulations providing for the conversion of other than annual rates of pay to annual rates of pay and shall specify the types of pay included in annual pay. For the purpose of this chapter, "annual pay" includes premium pay under section 5545(c)(1) of this title.

(d) In determining the amount of insurance to which an employee is entitled—

(1) a change in rate of pay under section 5337 of this title is deemed effective as of the first day of the pay period after the pay period in which the payroll change is approved; and

(2) a change in rate of pay under section 5344 or 5349 of this title is deemed effective as of the date of issuance of the order granting the increase or the effective date of the increase, whichever is later, except, that in the case of an employee who dies or retires during the period beginning on the effective date of the increase and ending on the date of the issuance of the order granting the increase, a change in rate of pay under either of such sections shall be deemed as having been

in effect for such employee during that period.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 593; Pub. L. 89-737, § 1(3), Nov. 2, 1966, 80 Stat. 1164; Pub. L. 90-206, title IV, § 401, Dec. 16, 1967, 81 Stat. 646; Pub. L. 92-392, § 11, Aug. 19, 1972, 86 Stat. 575.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(c)	5 U.S.C. 2092 (less (d)).	Aug. 17, 1954, ch. 752, § 3 (less (d)), 68 Stat. 737.
(d) (1)	[Uncodified]	Aug. 23, 1958, Pub. L. 85-737, § 3, 72 Stat. 831.
(d) (2)	5 U.S.C. 1183	Sept. 2, 1958, Pub. L. 85-872, § 3, 72 Stat. 1697.

In subsection (a), the words "An employee eligible for insurance is entitled" are coextensive with and substituted for "Each employee to whom this chapter applies shall be eligible".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1972—Subsec. (d)(2). Pub. L. 92-392 substituted "section 5344 or 5349 of this title" for "section 5343 of this title" and added the exception.

1967—Subsec. (a). Pub. L. 90-206, in the material preceding the table, struck out reference to an approximate relationship between the amount of group life insurance and the eligible employee's annual pay and inserted reference to an automatic extension of the schedule correspondingly by the amounts of increases in the annual rate of basic pay for positions at level II of the Executive Schedule under section 5313 of this title, and raised the insurance coverages for both life and accidental death and dismemberment.

1966—Subsec. (c). Pub. L. 89-737 added provision that, for the purpose of this chapter, "annual pay" includes premium pay under section 5545(c)(1) of this title.

Effective Date of 1972 Amendment

Amendment by Pub. L. 92-392 effective on first day of first applicable pay period beginning on or after the 90th day after Aug. 19, 1972, see section 15(a) of Pub. L. 92-392, set out as a note under section 5341 of this title.

Effective Date of 1967 Amendment

Section 405(a) of Pub. L. 90-206 provided that: "The amendments made by sections 401 to 403, inclusive, of this Act [amending this section and sections 8707 and 8708 of this title] shall take effect on the first day of the first pay period which begins on or after the sixtieth day following the date of enactment [Dec. 16, 1967]. In the case of an employee who dies or retires during the period beginning on the date of enactment of this Act [Dec. 16, 1967] and prior to the effective date prescribed by this subsection, the amount of insurance shall be determined as if the amendments made by section 401 [amending this section] were in effect for such employee during such period."

Effective Date of 1966 Amendment

Amendment of subsec. (c) of this section by Pub. L. 89-737 applicable with respect to premium pay payable from and after the first day of the first pay period which begins after the date of enactment of Pub. L. 89-737, which was approved Nov. 2, 1966, see section 4 of Pub. L. 89-737, set out in the note under section 8114 of this title.

Retroactive Effect of 1967 Amendment

Section 405(c) of Pub. L. 90-206 provided that: "The amendments made by sections 401 to 404, inclusive, of this Act [enacting section 8714a of this title and amending this section and sections 8707 and 8708 of this title] shall have no effect in the case of an employee who died, was finally separated, or retired prior to the date of enactment [Dec. 16, 1967]."

1967 Adjustment in Amount of Insurance

Section 220(b) of Pub. L. 90-206 provided that: "For the purposes of determining the amount of insurance for which an individual is eligible chapter 87 of title 5, United States Code [this chapter], relating to group life insurance for Federal employees—

"(1) all changes in rates of pay which result from the enactment of this title [see Short Title Note under section 5332 of this title] except Postal Field Service Schedule II, Rural Carrier Schedule II, and sections 207, 212, 213(d) and (e), 215, 219, and 225) shall be held and considered to become effective as of the date of such enactment [Dec. 16, 1967]; and

"(2) all changes in rates of pay which result from the enactment of section 212 of this title [Enacting provisions set out as notes under section 5304 of this title] and which take effect retroactively from the date on which the adjustments thereof are actually ordered under such section, shall be held and considered to become effective on the date on which such adjustments are actually ordered."

Section 220(b) of Pub. L. 90-206 effective Dec. 16, 1967, see section 220(a) (1) of Pub. L. 90-206, set out as a note under section 3110 of this title.

Cross References

Senate employees, effective date of salary changes for determining amount eligible, see section 72a-2 note of Title 2, The Congress.

Section Referred to in Other Sections

This section is referred to in section 8714a of this title.

§ 8705. Death claims; order of precedence; escheat

(a) The amount of group life insurance and group accidental death insurance in force on an employee at the date of his death shall be paid, on the establishment of a valid claim, to the person or persons surviving at the date of his death, in the following order of precedence:

First, to the beneficiary or beneficiaries designated by the employee in a signed and witnessed writing received before death in the employing office or, if insured because of receipt of annuity or of benefits under subchapter I of chapter 81 of this title as provided by section 8706(b) or (c) of this title, in the Civil Service Commission. For this purpose, a designation, change, or cancellation of beneficiary in a will or other document not so executed and filed has no force or effect.

Second, if there is no designated beneficiary, to the widow or widower of the employee.

Third, if none of the above, to the child or children of the employee and descendants of deceased children by representation.

Fourth, if none of the above, to the parents of the employee or the survivor of them.

Fifth, if none of the above, to the duly appointed executor or administrator of the estate of the employee.

Sixth, if none of the above, to other next of kin of the employee entitled under the laws of the domicile of the employee at the date of his death.

(b) If, within 1 year after the death of the employee, no claim for payment has been filed by a person entitled under the order of precedence named by subsection (a) of this section, or if payment to the person within that period is prohibited by Federal statute or regulation, payment may be made in the order of precedence as if the person had predeceased the employee, and the payment bars recovery by any other person.

(c) If, within 2 years after the death of the employee, no claim for payment has been filed by a person entitled under the order of precedence named by subsection (a) of this section, and neither the Commission nor the administrative office established by the company concerned pursuant to section 8709(b) of this title has received notice that such a claim will be made, payment may be made to the claimant who in the judgment of the Commission is equitably entitled thereto, and the payment bars recovery by any other person.

(d) If, within 4 years after the death of the employee, payment has not been made under this section and no claim for payment by a person entitled under this section is pending, the amount payable escheats to the credit of the Employees' Life Insurance Fund.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 594; Pub. L. 90-83, § 1(91), Sept. 11, 1967, 81 Stat. 219.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2093	Aug. 17, 1954, ch. 752, § 4, 68 Stat. 738. Aug. 28, 1962, Pub. L. 87-611, § 1, 76 Stat. 406.

In subsection (c), the words "Employees' Life Insurance Fund" are substituted for "fund created pursuant to section 2094(c) of this title".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8705(a)	5 App.: 2093	Mar. 23, 1966, Pub. L. 89-373, § 1, 80 Stat. 78.

In subsection (a), "Civil Service Commission" is substituted for "Commission" on authority of former 5 U.S.C. 2091(a).

In subsection (c), "Commission" is substituted for "Civil Service Commission" for consistency of style. The full title of the Commission is set forth the first time it is used in a section.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8714a of this title.

§ 8706. Termination of insurance

(a) A policy purchased under this chapter shall contain a provision, approved by the Civil Service Commission, to the effect that insurance of an employee stops on his separation from the service or 12 months after discontinuance of his pay, whichever is earlier, subject to a provision for temporary extension of life insurance coverage and for conversion to an individual policy of life insurance under conditions approved by the Commission.

(b) If on the date the insurance would otherwise stop the employee retires on an immediate annuity and—

(1) his retirement is for disability; or

(2) he has completed 12 years of creditable service as determined by the Commission;

his life insurance only may be continued, without cost to him, under conditions determined by the Commission. Periods of honorable, active service in the armed forces shall be credited toward the required 12 years if the employee has completed at least 5 years of civilian service. The amount of life insurance continued under this subsection shall be reduced by 2 percent at the end of each full calendar month after the date the employee becomes 65 years of age or retires, whichever is later. The Commission may prescribe minimum amounts, not less than 25 percent of the amount of life insurance in force before the first reduction, to which the insurance may be reduced.

(c) If on the date the insurance would otherwise stop the employee is receiving benefits under subchapter I of chapter 81 of this title because of disease or injury to himself, his life insurance only may be continued, without cost to him, under conditions determined by the Commission while he is receiving the benefits and is held by the Department of Labor to be unable to return to duty.

(d) The insurance granted to an employee stops, except for a 31-day extension of life insurance coverage, on the day immediately before his entry on active duty or active duty for training unless the period of duty is covered by military leave with pay. The insurance does not stop during a period of inactive duty training. For the purpose of this subsection, the terms "active duty", "active duty for training", and "inactive duty training" have the meanings given them by section 101 of title 38.

(e) Notwithstanding subsections (a)-(c) of this section, an employee who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8701(a) of this title, within 60 days after entering on that leave without pay, may elect to continue his insurance and arrange to pay currently into the Employees' Life Insurance Fund, through his employing agency, both employee and agency contributions from the beginning of leave without pay. The employing agency shall forward the premium payments to the Fund. If the employee does not so elect, his insurance will continue during nonpay status and stop as provided by subsection (a) of this section.

(f) If the insurance of an employee stops because of separation from the service or suspension without pay, and the separation or suspension is thereafter officially found to have been erroneous, the employee is deemed to have been insured during the period of erroneous separation or suspension. Deductions otherwise required by section 8707 of this chapter shall not be withheld from any backpay awarded for the period of separation or suspension unless death or accidental dismemberment of the employee occurs during such period.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 595; Pub. L. 90-83, § 1(92), Sept. 11, 1967, 81 Stat. 219; Pub. L. 92-529, Oct. 21, 1972, 86 Stat. 1050.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)-(c)	5 U.S.C. 2095	Aug. 17, 1954, ch. 752, § 6, 68 Stat. 739.
		Aug. 11, 1955, ch. 794, § 2(a), 69 Stat. 677.
		May 28, 1956, ch. 328, § 1, 70, Stat. 213.
		Sept. 23, 1959, Pub. L. 86-377, § 4(c), 73 Stat. 701.
(d)	5 U.S.C. 2091(c)	Aug. 1, 1956, ch. 837, § 501(c)(1) (less applicability to § 2(b)), 70 Stat. 882.

In subsection (b), the words "armed forces" are coextensive with and substituted for "Army, Navy, Air Force, and Marine Corps, or Coast Guard of the United States" in view of the definition of "armed forces" in section 2101.

In subsection (c), the word "only" is supplied for clarity and for consistency with subsection (b). The words "under conditions determined by the Commission, without cost to him" are coextensive with and substituted for "as provided in subsection (b) of this section".

In subsection (d), the first sentence of former section 2091(c) is omitted as unnecessary as the definition of "employee" in section 8701 precludes acquisition of coverage by a member of a uniformed service. The words "section 101 of title 38" are substituted for "section 1101 of title 38" on authority of section 5(a) of the Act of Sept. 2, 1958, Pub. L. 85-857, 72 Stat. 1262.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8706(e)	5 App.: 2095(d)	July 18, 1966, Pub. L. 89-504, § 406(a), 80 Stat. 298.

The words "subsections (a)-(c) of this section" are substituted for "the foregoing" to reflect the codification of former 5 U.S.C. 2095. The word "officer" is omitted as included in "employee." The words "as defined by section 8701(a) of this title" are substituted for "as defined in section 2 of the Act" to reflect the codification of that section in 5 U.S.C. 8701(a). The words "Employees' Life Insurance Fund" and "Fund" are substituted for "fund" and "fund established by section 5 of this Act", respectively.

AMENDMENTS

1972—Subsec. (f). Pub. L. 92-529 added subsec. (f).

ELECTION OF LIFE INSURANCE OR HEALTH BENEFITS DURING PERIOD OF SERVICE AS OFFICER OR EMPLOYEE OF AN EMPLOYEE ORGANIZATION; CONTRIBUTIONS INTO EMPLOYEES LIFE INSURANCE FUND OR EMPLOYEES HEALTH BENEFITS FUND, NON-ELECTION; REGULATIONS

Pub. L. 89-504, title IV, § 406(c), July 18, 1966, 80 Stat. 298, provided that: "An officer or employee who is on approved leave without pay and serving as a full-time officer or employee of an organization composed primarily of employees, as defined in section 2 of the Federal Employees' Group Life Insurance Act of 1954, as amended (5 U.S.C. 2091) [now section 8701 of this title] or section 2 of the Federal Employees Health Benefits Act of 1959, as amended (5 U.S.C. 3001) [now section 8901 of this title] as the case may be, may, within sixty days after the date of enactment of this Act [July 18, 1966], file with his employing agency an election (1) to continue any insurance status or health benefits enrollment, or both, that he has on the date of enactment of this Act [July 18, 1966], (2) to reacquire any insurance status or health benefits enrollment, or both, which he may have lost while on leave without pay, or (3) to acquire as insured status or enroll in a health benefits plan, or both, if he was never previously eligible to do so, by arranging to pay currently and continuously into the employees' life insurance fund and the employees' health benefits fund, as appropriate, through his employing agency, both employee and agency contributions. The employing agency shall forward such payments to the employees' life insurance fund and the employees' health benefits fund, as appropriate. If he does not so elect, his insurance status and health benefits enrollment will continue and terminate as for other employees in nonpay status, or he will remain ineligible for insurance and health benefits, as the case may be, as though this paragraph had not been enacted. The United States Civil Service Commission is authorized to issue regulations to carry out the purposes of this paragraph."

Provision effective July 18, 1966, see section 410(1) of Pub. L. 89-504.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8705, 8714a of this title.

§ 8707. Employee deductions; withholding

During each period in which an employee is insured under a policy of insurance purchased by the Civil Service Commission under section 8709 of this title, there shall be withheld from the pay of the employee his share of the cost of the group life insurance and accidental death and dismemberment insurance. The amount withheld shall be at the rate, adjusted to the nearest half-cent, of 66⅔ percent of the level cost of each $1,000 of insurance, as determined by the Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 595; Pub. L. 90-206, title IV, § 402, Dec. 16, 1967, 81 Stat. 647.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2094(a) (1st par.).	Aug. 17, 1954, ch. 752, § 5(a) (1st par.), 68 Stat. 738.
		Sept. 23, 1959, Pub. L. 86-377, § 4(b), 73 Stat. 701.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1967—Pub. L. 90-206 struck out reference to the Civil Service Commission's function of determining the amount to be withheld for group insurance and substituted provisions setting a rate of 66⅔ percent of the level cost of each $1,000 of insurance as determined by the Commission for provisions setting a limit of 25 cents biweekly for each $1,000 of group life insurance and directing the withholding of the amount from employees paid on other than a biweekly basis at a proportional rate adjusted to the nearest cent.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective on the first day of the first pay period which begins on or after the sixtieth day following Dec. 16, 1967, see section 405(a) of Pub. L. 90-206, set out as a note under section 8704 of this title.

RETROACTIVE EFFECT OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 to have no effect in the case of an employee who died, was finally separated, or retired prior to Dec. 16, 1967, see section 405(c) of Pub. L. 90-206, set out as a note under section 8704 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8706, 8708, 8714, 8714a of this title.

§ 8708. Government contributions

(a) For each period in which an employee is insured under a policy of insurance purchased by the Civil Service Commission under section 8709 of this title, a sum equal to one-half the amount which is withheld from the pay of the employee under section 8707 of this title shall be contributed from the appropriation or fund which is used to pay him.

(b) When an employee is paid by the Clerk of the House of Representatives, the Clerk may contribute the sum required by subsection (a) of this section from the contingent fund of the House.

(c) When the employee is an elected official, the sum required by subsection (a) of this section is contributed from an appropriation or fund available for payment of other salaries of the same office or establishment.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 595; Pub. L. 90-206, title IV, § 403, Dec. 16, 1967, 81 Stat. 647.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a), (c)	5 U.S.C. 2094(b).	Aug. 17, 1954, ch. 752, § 5(b), 68 Stat. 738.
(b)	2 U.S.C. 128	Aug. 5, 1955, ch. 568, § 101 (4th par. under "Administrative Provisions"), 69 Stat. 513.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

AMENDMENTS

1967—Subsec. (a). Pub. L. 90-206 substituted provisions setting the sum to be withheld at one-half the amount withheld from the pay of the employee under section 8707 of this title for provisions setting the sum to be withheld at a rate to be determined by the Commission not to exceed one-half of the amount withheld under section 8707 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 effective on the first day of the first pay period which begins on or after the sixtieth day following December 16, 1967, see section 405(a) of Pub. L. 90-206, set out as a note under section 8704 of this title.

RETROACTIVE EFFECT OF 1967 AMENDMENT

Amendment by Pub. L. 90-206 to have no effect in the case of an employee who died, was finally separated, or retired prior to Dec. 16, 1967, see section 405(c) of Pub. L. 90-206, set out as a note under section 8704 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8714, 8714a of this title.

§ 8709. Insurance policies

(a) The Civil Service Commission, without regard to section 5 of title 41, may purchase from one or more life insurance companies a policy or policies of group life and accidental death and dismemberment insurance to provide the benefits specified by this chapter. A company must meet the following requirements:

(1) It must be licensed to transact life and accidental death and dismemberment insurance under the laws of 48 of the States and the District of Columbia.

(2) It must have in effect, on the most recent December 31 for which information is available to the Commission, an amount of employee group life insurance equal to at least 1 percent of the total amount of employee group life insurance in the United States in all life insurance companies.

(b) A company issuing a policy under subsection (a) of this section shall establish an administrative office under a name approved by the Commission.

(c) The Commission at any time may discontinue a policy purchased from a company under subsection (a) of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 596.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2096 (less (c)-(e)).	Aug. 17, 1954, ch. 752, § 7 (less (c)-(e)), 68 Stat. 739.

In subsection (a), the words "as determined by it" are omitted as unnecessary.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8705, 8707, 8708, 8714a of this title.

§ 8710. Reinsurance

(a) The Civil Service Commission shall arrange with a company issuing a policy under this chapter for the reinsurance, under conditions approved by the Commission, of portions of the total amount of insurance under the policy, determined under this section, with other life insurance companies which elect to participate in the reinsurance.

(b) The Commission shall determine for and in advance of a policy year which companies are eligible to participate as reinsurers and the amount of insurance under a policy which is to be allocated to the issuing company and to reinsurers. The Commission shall make this determination at least every 3 years and when a participating company withdraws.

(c) The Commission shall establish a formula under which the amount of insurance retained by an issuing company after ceding reinsurance, and the amount of reinsurance ceded to each reinsurer, is in proportion to the total amount of each company's group life insurance, excluding insurance purchased under this chapter, in force in the United States on the determination date, which is the most recent December 31 for which information is available to the Commission. In determining the proportions, the portion of a company's group life insurance in force on the determination date in excess of $100,000,000 shall be reduced by—

(1) 25 percent of the first $100,000,000 of the excess;

(2) 50 percent of the second $100,000,000 of the excess;

(3) 75 percent of the third $100,000,000 of the excess; and

(4) 95 percent of the remaining excess.

However, the amount retained by or ceded to a company may not exceed 25 percent of the amount of the company's total life insurance in force in the United States on the determination date.

(d) A fraternal benefit association which is—

(1) licensed to transact life insurance under the laws of a State or the District of Columbia; and

(2) engaged in issuing insurance certificates on the lives of employees of the United States exclusively;

is eligible to act as a reinsuring company and may be allocated an amount of reinsurance equal to 25 percent of its total life insurance in force on employees of the United States on the determination date named by subsection (c) of this section.

(e) An issuing company or reinsurer is entitled, as a minimum, to be allocated an amount of insurance under the policy equal to any reduction from December 31, 1953, to the determination date, in the amount of the company's group life insurance under policies issued to associations of employees of the United States. However, any increase under this subsection in the amount allocated is reduced by the amount in force on the determination date of any policy covering life insurance agreements assumed by the Commission.

(f) The Commission may modify the computations under this section as necessary to carry out the intent of this section.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 596.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2096 (c)-(e).	Aug. 17, 1954, ch. 752, § 7(c)-(e), 68 Stat. 739. Aug. 11, 1955, ch. 794, § 3, 69 Stat. 677.

The section is reorganized to clarify the steps in the computation of the insurance allocable to issuing and reinsuring companies.

In subsections (c) and (d), references to the first determination date, December 31, 1953, are omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8714a of this title.

§ 8711. Basic tables of premium rates

(a) A policy purchased under this chapter shall include, for the first policy year, basic tables of premium rates as follows:

(1) For group life insurance, a schedule of basic premium rates by age which the Civil Service Commission determines to be consistent with the lowest schedule of basic premium rates generally charged for new group life insurance policies issued to large employers.

(2) For group accidental death and dismemberment insurance, a basic premium rate which the Commission determines is consistent with the lowest rate generally charged for new group accidental death and dismemberment policies issued to large employers.

The schedule for group life insurance, except as otherwise provided by this section, shall be applied to the distribution by age of the amounts of group life insurance under the policy at its date of issuance to determine an average basic premium rate per $1,000 of life insurance.

(b) The policy shall provide that the basic premium rates determined for the first policy year continue for later policy years except as readjusted for a later year based on experience under the policy. The company issuing the policy may make the readjustment on a basis that the Commission determines in advance of the policy year is consistent with the general practice of life insurance companies under policies of group life and group accidental death and dismemberment insurance issued to large employers.

(c) The policy shall provide that if the Commission determines that ascertaining the actual age distribution of the amounts of group life insurance in force at the date of issue of the policy or at the end of the first or any later year of insurance thereunder would not be possible except at a disproportionately high expense, the Commission may approve the determination of a tentative average group life premium rate, for the first or any later policy year, instead of using the actual age distribution. The Commission, on request by the company issuing the policy, shall redetermine the tentative average premium rate during any policy year, if experience indicates that the assumptions made in determining that rate were incorrect for that year.

(d) The policy shall stipulate the maximum expense and risk charges for the first policy year. The Commission shall determine these charges on a basis consistent with the general level of charges made by life insurance companies under policies of group life and accidental death and dismemberment insurance issued to large employers. The maximum charges continue from year to year, except that the Commission may redetermine them for any year either by agreement with the company issuing the policy or on written notice given to the company at least 1 year before the beginning of the year for which the redetermined maximum charges will be effective.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 597.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2097 (less (d)).	Aug. 17, 1954, ch. 752, § 8 (less (d)), 68 Stat. 740.

In subsection (a), the word "policy" is substituted for "policy or policies" on authority of 1 U.S.C. 1. In subsections (b) and (c), the words "The policy" are substituted for "Each policy so purchased". In subsections (b), (c), and (d), the word "insurance", preceding the word "company", is omitted as unnecessary; and the word "company" is substituted for "company or companies" on authority of 1 U.S.C. 1.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8714a of this title.

§ 8712. Annual accounting; special contingency reserve

A policy purchased under this chapter shall provide for an accounting to the Civil Service Commission not later than 90 days after the end of each policy year. The accounting shall set forth, in a form approved by the Commission—

(1) the amounts of premiums actually accrued under the policy from its date of issue to the end of the policy year;

(2) the total of all mortality and other claim charges incurred for that period; and

(3) the amounts of the insurers' expense and risk charges for that period.

An excess of the total of paragraph (1) of this section over the sum of paragraphs (2) and (3) of this section shall be held by the company issuing the policy as a special contingency reserve to be used by the company only for charges under the policy. The reserve shall bear interest at a rate determined in advance of each policy year by the company and approved by the Commission as being consistent with the rate generally used by the company for similar funds held under other group life insurance policies. When the Commission determines that the special contingency reserve has attained an amount estimated by it to make satisfactory provision for adverse fluctuations in future charges under the policy, any further excess shall be deposited in the Treasury of the United States to the credit of the Employees' Life Insurance Fund. When a policy is discontinued, any balance remaining in the special contingency reserve after all charges have been made shall be deposited in the Treasury to the credit of the Fund. The company may make the deposit in equal monthly installments over a period of not more than 2 years.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 598.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2097(d)	Aug. 17, 1954, ch. 752, § 8(d), 68 Stat. 741.

The words "A policy purchased under this chapter" are substituted for "Each such policy" for clarity. The word "insurance", preceding the word "company", is omitted as unnecessary; and the word "company" is substituted for "company or companies" on authority of 1 U.S.C. 1.

The words "Employees' Life Insurance Fund" are substituted for "fund".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8714a of this title.

§ 8713. Advisory committee

[(a) Repealed. Pub. L. 90-83, § 1(93)(B), Sept. 11, 1967, 81 Stat. 219.]

(b) The Chairman of the Civil Service Commission shall appoint a committee composed of five employees insured under this chapter, who serve without additional pay, to advise the Commission regarding matters of concern to employees under this chapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 598; Pub. L. 90-83, § 1(93), Sept. 11, 1967, 81 Stat. 219.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2101 (less applicability to 5 U.S.C. 2099).	Aug. 17, 1954, ch. 752, § 12 (less applicability to § 10), 68 Stat. 742.

In subsection (a), the words "hereby established" are omitted as executed.

In subsection (b), the word "additional" is added to conform to subsection (a).

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

This section deletes subsection (a), and makes a technical amendment to subsection (b), of 5 U.S.C. 8713 to reflect 1965 Reorganization Plan No. 4, effective July 27, 1965, 79 Stat. 1322, sections 11(a) and 13(a) of which transferred to the Chairman of the Civil Service Commission all functions of the Advisory Council on Group Insurance and abolished the Council. Section 1(2) of this bill amends 5 U.S.C. 1104(a) to include the function as a function of the Chairman of the Commission.

§ 8714. Employees' Life Insurance Fund

(a) The amounts withheld from employees under section 8707 of this title and the sums contributed from appropriations and funds under section 8708 of this title shall be deposited in the Treasury of the United States to the credit of the Employees' Life Insurance Fund. The Fund is available without fiscal year limitation for—

(1) premium payments under an insurance policy purchased under this chapter; and

(2) expenses incurred by the Civil Service Commission in the administration of this chapter within the limitations that may be specified annually by appropriation acts.

(b) The Secretary of the Treasury may invest and reinvest any of the money in the Fund in interest-bearing obligations of the United States, and may sell these obligations for the purposes of the Fund. The interest on and the proceeds from the sale of these obligations, and the income derived from dividend or premium rate adjustments from insurers, become a part of the Fund.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 598.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2094(c) (less applicability to 5 U.S.C. 2099), (d).	Aug. 17, 1954, ch. 752, § 5(c) (less applicability to § 10), 68 Stat. 739. Aug. 11, 1955, ch. 794, § 1(a) "(c) (less applicability to § 10)", (b), 69 Stat. 676. Apr. 11, 1958, Pub. L. 85-377, § 1 (less applicability to § 10), 72 Stat. 87.

In subsection (a), the words "of the Employees' Life Insurance Fund" are substituted for "of a fund which is hereby created". The proviso which made appropriations available to the Commission for salaries and expenses for the fiscal year 1955 available on a reimbursable basis for necessary administrative expenses for carrying out the purposes of this chapter is omitted as executed.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 8714a of this section; title 20 section 125; title 25 section 450i.

§ 8714a. Optional insurance

(a) Under the conditions, directives, and terms specified in sections 8709-8712 of this title, the Civil Service Commission, without regard to section 5 of title 41, may purchase a policy which shall make available to each insured employee equal amounts of optional life insurance and accidental death and dismemberment insurance in addition to the amounts provided in section 8704(a) of this title.

(b) The optional life insurance and accidental death and dismemberment insurance shall be made available to each insured employee under such conditions as the Commission shall prescribe and in amounts approved by the Commission but not more than the greater of $10,000 or an amount which, when added to the amount provided in section 8704(a) of this title, makes the sum of his insurance equal to his annual pay.

(c) (1) The optional insurance on an employee stops on his separation from service, 12 months after discontinuance of his pay, or on his entry on active duty or active duty for training, as provided in sections 8706(a) and 8706(d) of this title.

(2) So much of the optional life insurance in force on an employee on the date he retires on an immediate annuity or becomes entitled to receive compensation for work injuries which has been in force for not less than—

(A) the full period or periods of service during which the optional insurance was available to him; or

(B) the 12 years of service immediately preceding his retirement or beginning date of entitlement to compensation for work injuries and during which the optional insurance was available to him;

whichever is shorter, may be continued—

(A) after retirement, under the same conditions (except with respect to cost but including reduction of the amount continued) as provided in section 8706(b) of this title; or

(B) while in receipt of compensation for work injuries under the same conditions (except with respect to cost) as provided in section 8706(c) of this title.

(d) During each period in which an employee has the optional insurance the full cost thereof shall be withheld from his pay. During each period in which an employee continues optional life insurance after retirement or while in receipt of compensation for work injuries, as provided in section 8706(b) or 8706(c) of this title, the full cost thereof shall be withheld from his annuity or compensation, except that, at the end of the calendar month in which he becomes 65 years of age, the optional life insurance shall be without cost to him. Amounts so withheld shall be deposited, used, and invested as provided in section 8714 of this title and shall be reported and accounted for separately from amounts withheld and contributed under sections 8707 and 8708 of this title.

(e) The cost of the optional insurance shall be determined from time to time by the Commission on the basis of such age groups as it considers appropriate.

(f) The amount of optional life, or life and accidental death, insurance in force on an employee at the date of his death shall be paid as provided in section 8705 of this title.

(Added Pub. L. 90-206, title IV, § 404(1), Dec. 16, 1967, 81 Stat. 647.)

Effective Date

Section 405(b) of Pub. L. 90-206 provided that:

"(1) The amendments made by section 404 of this Act [enacting this section and amending analysis preceding section 8701 of this title] shall take effect on the first day of the first pay period which begins on or after the one hundred and eightieth day following the date of enactment [Dec. 16, 1967], or on any earlier date that the Civil Service Commission may prescribe, which is at least sixty days after the date of enactment [Dec. 16, 1967]. In the case of an employee who dies during the period beginning on the date of enactment [Dec. 16, 1967] and ending on the effective date prescribed by or pursuant to this subsection, or during the sixty days immediately following such period if the Commission determines that he did not have a reasonable opportunity to elect the optional insurance made available by section 404, the insurance of such employee shall be determined as if the amendments made by section 404 had been in effect on the date of such death, and the employee had elected to receive the maximum amount of optional insurance available to him under such amendments. An employee who retires during the period beginning on the date of enactment and ending on the effective date prescribed by or pursuant to this subsection shall have an opportunity to elect the optional insurance made available by section 404.

"(2) In the case of an employee in the service on the effective date prescribed by or pursuant to this subsection, (i) the period during which such employee may elect to receive optional insurance under the amendment made by section 404 shall not expire prior to the sixtieth day after such effective date, and (ii) for the purpose of determining the amount of insurance to be continued after retirement, the period during which such optional insurance was available to such employee shall not be considered to have commenced prior to the expiration of sixty days following such effective date."

RETROACTIVE EFFECT

Enactment of this section by Pub. L. 90-206 to have no effect in the case of an employee who died, was finally separated, or retired prior to Dec. 16, 1967, see section 405(c) of Pub. L. 90-206, set out as a note under section 8704 of this title.

§ 8715. Jurisdiction of courts

The district courts of the United States have original jurisdiction, concurrent with the Court of Claims, of a civil action or claim against the United States founded on this chapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 599.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 2103 (less applicability to 5 U.S.C. 2099).	Aug. 17, 1954, ch. 752, § 14 (less applicability to § 10), 68 Stat. 743.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8716. Regulations

(a) The Civil Service Commission may prescribe regulations necessary to carry out the purposes of this chapter.

(b) The regulations of the Commission may prescribe the time at which and the conditions under which an employee is eligible for coverage under this chapter. The Commission, after consulting the head of the agency or other employing authority concerned, may exclude an employee on the basis of the nature and type of his employment or conditions pertaining to it, such as short-term appointment, seasonal, intermittent or part-time employment, and employment of like nature. The Commission may not exclude—

(1) an employee or group of employees solely on the basis of the hazardous nature of employment; or

(2) a teacher in the employ of the Board of Education of the District of Columbia, whose pay is fixed by section 1501 of title 31, District of Columbia Code, on the basis of the fact that the teacher is serving under a temporary appointment if the teacher has been so employed by the Board for a period or periods totaling not less than two school years.

(c) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this chapter to an individual named by section 8701(a)(8) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 599.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 2100 (less applicability to 5 U.S.C. 2099).	Aug. 17, 1954, ch. 752, § 11 (less applicability to § 10), 68 Stat. 742.
(b), (c)	5 U.S.C. 2091(a) (words between 6th and 7th commas of 1st sentence and 2d sentence), (d) (words between 1st and 2d commas of 1st sentence, and 2d sentence).	Aug. 17, 1954, ch. 752, § 2(a) (words between 6th and 7th commas of 1st sentence and 2d sentence), 68 Stat. 736. July 1, 1960, Pub. L. 86-568, § 115(c) "(d) (words between 1st and 2d commas of 1st sentence, and 2d sentence)", 74 Stat. 302. Oct. 6, 1964, Pub. L. 88-631, § 2, 78 Stat. 1007.

In subsection (a), the words "Except as otherwise provided herein" are omitted as unnecessary since the authority to prescribe regulations is carried into this section.

In subsection (b), the words "section 1501 of title 31, District of Columbia Code" are substituted for "section 1 of the District of Columbia Teachers' Salary Act of 1955 (69 Stat. 521), as amended (Sec. 31-1501, D.C. Code, 1961 edition)".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8701 of this title.

CHAPTER 89—HEALTH INSURANCE

Sec.

8901. Definitions.
8902. Contracting authority.
8903. Health benefits plans.
8904. Types of benefits.
8905. Election of coverage.
8906. Contributions.
8907. Information to employees.
8908. Coverage of restored employees and survivor annuitants.
8909. Employees Health Benefits Fund.
8910. Studies, reports, and audits.
8911. Advisory committee.
8912. Jurisdiction of courts.
8913. Regulations.

AMENDMENTS

1976—Pub. L. 94-342, § 1(b), July 6, 1976, 90 Stat. 808, substituted "employees and survivor annuitants" for "employee" in item 8908.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 1308, 3373, 3374, 3582 of this title; title 2 sections 31b-5, 72a; title 25 section 450i; title 28 sections 332, 627, 634; title 39 section 1005; title 42 sections 300e-1, 426a, 1395y, 2996d.

CHAPTER REFERRED TO IN D.C. CODE

This chapter is referred to in sections 31-634, 31-635, 31-746, 31-1603, 31-1623 of the District of Columbia Code.

§ 8901. Definitions

For the purpose of this chapter—

(1) "employee" means—

(A) an employee as defined by section 2105 of this title;

(B) a Member of Congress as defined by section 2106 of this title;

(C) a Congressional employee as defined by section 2107 of this title;

(D) the President;

(E) an individual employed by the government of the District of Columbia;

(F) an individual employed by Gallaudet College;

(G) a United States Commissioner to whom subchapter III of chapter 83 of this title applies by operation of section 8331(1)(E) of this title; and

(H) an individual employed by a county committee established under section 590h(b) of title 16;

but does not include—

(i) an employee of a corporation supervised by the Farm Credit Administration if private interests elect or appoint a member of the board of directors;

(ii) an employee who is not a citizen or national of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone;

(iii) an employee of the Tennessee Valley Authority; or

(iv) an employee excluded by regulation of the Civil Service Commission under section 8913(b) of this title;

(2) "Government" means the Government of the United States and the government of the District of Columbia;

(3) "annuitant" means—

(A) an employee who retires on an immediate annuity under subchapter III of chapter 83 of this title or another retirement system for employees of the Government, after 12 or more years of service or for disability;

(B) a member of a family who receives an immediate annuity as the survivor of an employee or of a retired employee described by subparagraph (A) of this paragraph;

(C) an employee who receives monthly compensation under subchapter I of chapter 81 of this title and who is determined by the Secretary of Labor to be unable to return to duty; and

(D) a member of a family who receives monthly compensation under subchapter I of chapter 81 of this title as the surviving beneficiary of—

(i) an employee who dies as a result of injury or illness compensable under that subchapter; or

(ii) a former employee who is separated after having completed 5 or more years of service and who dies while receiving monthly compensation under that subchapter and who has been held by the Secretary to have been unable to return to duty;

(4) "service", as used by paragraph (3) of this section, means service which is creditable under subchapter III of chapter 83 of this title;

(5) "member of family" means the spouse of an employee or annuitant and an unmarried child under 22 years of age, including—

(A) an adopted child; and

(B) a stepchild, foster child, or recognized natural child who lives with the employee or annuitant in a regular parent-child relationship;

or such an unmarried child regardless of age who is incapable of self-support because of mental or physical disability which existed before age 22;

(6) "health benefits plan" means a group insurance policy or contract, medical or hospital service agreement, membership or subscription contract, or similar group arrangements provided by a carrier for the purpose of providing, paying for, or reimbursing expenses for health services;

(7) "carrier" means a voluntary association, corporation, partnership, or other nongovernmental organization which is lawfully engaged in providing, paying for, or reimbursing the cost of, health services under group insurance policies or contracts, medical or hospital service agreements, membership or subscription contracts, or similar group arrangements, in consideration of premiums or other periodic charges payable to the carrier, including a health benefits plan duly sponsored or underwritten by an employee organization; and

(8) "employee organization" means an association or other organization of employees which is national in scope, or in which membership is open to all employees of a Government agency who are eligible to enroll in a health benefits plan under this chapter, and which, before January 1, 1964, applied to the Commission for approval of a plan provided under section 8903(3) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 600; Pub. L. 90-83, § 1(95), Sept. 11, 1967, 81 Stat. 219; Pub. L. 91-418, §§ 2, 3(b), Sept. 25, 1970, 84 Stat. 869; Pub. L. 93-160, § 1(b), Nov. 27, 1973, 87 Stat. 635.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3001	Sept. 28, 1959, Pub. L. 86-382, § 2, 73 Stat. 709. July 8, 1963, Pub. L. 88-59, § 1, 77 Stat. 76. Mar. 17, 1964, Pub. L. 88-284, § 1 (1)-(4), 78 Stat. 164. Aug. 31, 1964, Pub. L. 88-531, § 1, 78 Stat. 737.
....	5 U.S.C. 3002(f) (1st sentence, less words between 1st and 2d commas).	July 1, 1960, Pub. L. 86-568, § 115(d) "(f) (1st sentence, less words between 1st and 2d commas)", 74 Stat. 303.

The definition of "employee" in section 2105 of this title is broad enough to cover the officers and employees covered by former section 3001 with the exception of a Member of Congress, the President, an individual employed by the government of the District of Columbia, an individual employed by Gallaudet College, a United States commissioner, and an Official Reporter of Debates of the Senate and an individual employed by him. The first five have been added in paragraphs (1)(B), (D), (E), (F), and (G). The latter are covered by the definition of "Congressional employee" in section

2107 of this title and are included by the addition of a Congressional employee in paragraph (1)(C).

In paragraph (1)(ii), the words "the United States" are substituted for "a State of the United States or the District of Columbia".

Paragraph (1)(iv) is added for clarity.

In paragraph (8), the words "before January 1, 1964" are substituted for "on or before December 31, 1963".

The definition of "Commission" in former section 3001(h) is omitted as unnecessary as the full title "Civil Service Commission" is set forth the first time it is used in a section.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Sources (Statutes at Large)*
8901(5)	5 App.: 3001(d)	July 18, 1966, Pub. L. 89-504, § 601, 80 Stat. 303.

AMENDMENTS

1973—Par. (1)(ii). Pub. L. 93-160 excluded from the definition of "employee" persons who are not nationals of the United States and whose permanent duty station is outside the United States and the Panama Canal Zone.

1970—Par. (1)(ii). Pub. L. 91-418, § 3(b), excluded from definition of "employee" a noncitizen employee whose permanent duty station is outside the Panama Canal Zone.

Par. (3)(B). Pub. L. 91-418, § 2(a), redefined "annuitant" to be a member of a family who receives an immediate annuity as the survivor of an employee rather than as the survivor of an employee who dies after completing 5 or more years of service.

Par. (3)(D)(i). Pub. L. 91-418, § 2(b), redefined "annuitant" to be a member of a family who receives monthly compensation as the surviving beneficiary of an employee who dies as a result of a compensable injury or illness rather than as the survivor of an employee who, having completed 5 or more years of service, so dies.

CROSS REFERENCES

Annual report to Congress by the Civil Service Commission on the operation of this chapter, see section 1308 of this title.

United States magistrates and necessary clerical and secretarial assistants employed in the offices of such full-time magistrates deemed officers and employees in the Federal judicial branch within meaning of this chapter, see section 634 of Title 28, Judiciary and Judicial Procedure.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 8906, 8913 of this title; title 42 section 251.

§ 8902. Contracting authority

(a) The Civil Service Commission may contract with qualified carriers offering plans described by section 8903 of this title, without regard to section 5 of title 41 or other statute requiring competitive bidding. Each contract shall be for a uniform term of at least 1 year, but may be made automatically renewable from term to term in the absence of notice of termination by either party.

(b) To be eligible as a carrier for the plan described by section 8903(2) of this title, a company must be licensed to issue group health insurance in all the States and the District of Columbia.

(c) A contract for a plan described by section 8903(1) or (2) of this title shall require the carrier—

(1) to reinsure with other companies which elect to participate, under an equitable formula based on the total amount of their group health insurance benefit payments in the United States during the latest year for which the information is available, to be determined by the carrier and approved by the Commission; or

(2) to allocate its rights and obligations under the contract among its affiliates which elect to participate, under an equitable formula to be determined by the carrier and the affiliates and approved by the Commission.

(d) Each contract under this chapter shall contain a detailed statement of benefits offered and shall include such maximums, limitations, exclusions, and other definitions of benefits as the Commission considers necessary or desirable.

(e) The Commission may prescribe reasonable minimum standards for health benefits plans described by section 8903 of this title and for carriers offering the plans. Approval of a plan may be withdrawn only after notice and opportunity for hearing to the carrier concerned without regard to subchapter II of chapter 5 and chapter 7 of this title. The Commission may terminate the contract of a carrier effective at the end of the contract term, if the Commission finds that at no time during the preceding two contract terms did the carrier have 300 or more employees and annuitants, exclusive of family members, enrolled in the plan.

(f) A contract may not be made or a plan approved which excludes an individual because of race, sex, health status, or, at the time of the first opportunity to enroll, because of age.

(g) A contract may not be made or a plan approved which does not offer to each employee or annuitant whose enrollment in the plan is ended, except by a cancellation of enrollment, a temporary extension of coverage during which he may exercise the option to convert, without evidence of good health, to a nongroup contract providing health benefits. An employee or annuitant who exercises this option shall pay the full periodic charges of the nongroup contract.

(h) The benefits and coverage made available under subsection (g) of this section are noncancelable by the carrier except for fraud, over-insurance, or nonpayment of periodic charges.

(i) Rates charged under health benefits plans described by section 8903 of this title shall reasonably and equitably reflect the cost of the benefits provided. Rates under health benefits plans described by section 8903(1) and (2) of this title shall be determined on a basis which, in the judgment of the Commission, is consistent with the lowest schedule of basic rates generally charged for new group health benefit plans issued to large employers. The rates determined for the first contract term shall be continued for later contract terms, except that they may be readjusted for any later term, based on past experience and benefit adjustments under the later contract. Any readjustment in rates shall be made in advance of the contract term in which they will apply and on a basis which, in the judgment of the Commission, is consistent with the general practice of carriers which issue group health benefit plans to large employers.

(j) Each contract under this chapter shall require the carrier to agree to pay for or provide a health service or supply in an individual case if the Commission finds that the employee, annuitant, or family member is entitled thereto under the terms of the contract.

(k) When a contract under this chapter requires payment or reimbursement for services which may be performed by a clinical psychologist or optometrist, licensed or certified as such under Federal or State law, as applicable, an employee, annuitant, or family member covered by the contract shall be free to select, and shall have direct access to, such a clinical psychologist or optometrist without supervision or referral by another health practitioner and shall be entitled under the contract to have payment or reimbursement made to him or on his behalf for the services performed. The provisions of this subsection shall not apply to group practice prepayment plans.

(*l*) The Commission shall contract under this chapter for a plan described in section 8903(4) of this title with any qualified health maintenance carrier which offers such a plan. For the purpose of this subsection, "qualified health maintenance carrier" means any qualified carrier which is a qualified health maintenance organization within the meaning of section 1310(d)(1) of title XIII of the Public Health Service Act (42 U.S.C. 300c-9(d)).

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 601; Pub. L. 93-246, § 3, Jan. 31, 1974, 88 Stat. 4; Pub. L. 93-363, § 1, July 30, 1974, 88 Stat. 398; Pub. L. 94-183, § 2(43), Dec. 31, 1975, 89 Stat. 1059; Pub. L. 94-460, title I, § 110(b), Oct. 8, 1976, 90 Stat. 1952.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3005	Sept. 28, 1959, Pub. L. 86-382, § 6, 73 Stat. 712. Mar. 17, 1964, Pub. L. 88-284, § 1(7)-(9), 78 Stat. 165.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

References in Text

Section 1310(d)(1) of title XIII of the Public Health Service Act (42 U.S.C. 300c-9(d)), referred to in subsec. (*l*), probably is intended as a reference to section 300e-9(d) of Title 42, The Public Health and Welfare.

Amendments

1976—Subsec. (*l*). Pub. L. 94-460 added subsec. (*l*).

1975—Subsec. (k). Pub. L. 94-183 redesignated former subsec. (j), added by Pub. L. 93-363 and relating to services performed by a clinical psychologist or optometrist, as (k).

1974—Subsec. (j). Pub. L. 93-363 added subsec. (j) covering services performed by a clinical psychologist or optometrist.

Pub. L. 93-246 added subsec. (j) requiring the carrier to pay for or provide a health service or supply in specified cases.

Effective Date of 1976 Amendment

Amendment by Pub. L. 94-460 effective Oct. 8, 1976, see section 118 of Pub. L. 94-460, set out as a note under section 300e of Title 42, The Public Health and Welfare.

Effective Date of 1974 Amendments

Section 2 of Pub. L. 93-363 provided that: "The amendment made by this Act [adding subsec. (j) of this section] shall become effective with respect to any contract entered into or renewed on or after the date of enactment of this Act [July 30, 1974]."

Section 4(c) of Pub. L. 93-246 provided that: "Section 3 [adding subsec. (j) of this section] shall become effective with respect to any contract entered into or renewed on or after the date of enactment of this Act [Jan. 31, 1974]."

Authority of Carrier To Contract for Comprehensive Medical Services From a Group Practice Unit or Organization

Pub. L. 91-515, title IV, § 401, Oct. 30, 1970, 84 Stat. 1309, provided that:

"(a) The Secretary of Health, Education, and Welfare may, in accordance with the provisions of this section, authorize any carrier, which is a party to a contract entered into under chapter 89 of title 5, United States Code (relating to health benefits for Federal employees), or under the Retired Federal Employees Health Benefits Act, or which participates in the carrying out of any such contract, to issue in any State contracts entitling any person as a beneficiary to receive comprehensive medical services (as defined in subsection (b)) from a group practice unit or organization (as defined in subsection (c)) with which such carrier has contracted or otherwise arranged for the provision of such services.

"(b) As used in this section, the term 'comprehensive medical services' means comprehensive preventive, diagnostic, and therapeutic medical services (as defined in regulations of the Secretary), furnished on a prepaid basis; and may include, at the option of a carrier, such other health services including mental health services, and equipment and supplies, furnished on such terms and conditions with respect to copayment and other matters, as may be authorized in regulations of the Secretary.

"(c) As used in this section:

"(1) The term 'group practice unit or organization' means a nonprofit agency, co-operative, or other organization undertaking to provide, through direct employment of, or other arrangements with the members of a medical group, comprehensive medical services (or such services and other health services) to members, subscribers, or other persons protected under contracts of carriers.

"(2) The term 'medical group' means a partnership or other association or group of persons who are licensed to practice medicine in a State (or of such persons and persons licensed to practice dentistry or optometry) who (A) as their principal professional activity and as a group responsibility, engage in the coordinated practice of their profession primarily in one or more group practice facilities, (B) pool their income from practice as members of the group and distribute it among themselves according to a prearranged plan, or enter into an employment arrangement with a group practice unit or organization for the provision of their services, (C) share common overhead expenses (if and to the extent such expenses are paid by members of the group), medical and other records and substantial portions of the equipment and professional, technical, and administrative staff, and (D) include within the group at least such professional personnel, and make available at least such health services, as may be specified in regulations of the Secretary.

"(d) Nothing in this section shall preclude any State or State agency from regulating the amounts charged for contracts issued pursuant to subsection (a) or the manner of soliciting and issuing such contracts, or from regulating any carrier issuing such contracts in any manner not inconsistent with the provisions of this section."

Section Referred to in Other Sections

This section is referred to in sections 8910, 8913 of this title.

§ 8903. Health benefits plans

The Civil Service Commission may contract for or approve the following health benefits plans:

(1) **Service Benefit Plan.**—One Government-wide plan, offering two levels of benefits, under which payment is made by a carrier under contracts with physicians, hospitals, or other providers of health services for benefits of the types described by section 8904(1) of this title given to employees or annuitants, or members of their families, or, under certain conditions, payment is made by a carrier to the employee or annuitant or member of his family.

(2) **Indemnity Benefit Plan.**—One Government-wide plan, offering two levels of benefits, under which a carrier agrees to pay certain sums of money, not in excess of the actual expenses incurred, for benefits of the types described by section 8904(2) of this title.

(3) **Employee Organization Plans.**—Employee organization plans which offer benefits of the types referred to by section 8904(3) of this title, which are sponsored or underwritten, and are administered, in whole or substantial part, by employee organizations, which are available only to individuals, and members of their families, who at the time of enrollment are members of the organization.

(4) **Comprehensive Medical Plans.**—

(A) **Group-practice prepayment plans.**—Group-practice prepayment plans which offer health benefits of the types referred to by section 8904(4) of this title, in whole or in substantial part on a prepaid basis, with professional services thereunder provided by physicians practicing as a group in a common center or centers. The group shall include physicians representing at least three major medical specialties who receive all or a substantial part of their professional income from the prepaid funds.

(B) **Individual-practice prepayment plans.**—Individual-practice prepayment plans which offer health services in whole or substantial part on a prepaid basis, with professional services thereunder provided by individual physicians who agree, under certain conditions approved by the Commission, to accept the payments provided by the plans as full payment for covered services given by them including, in addition to in-hospital services, general care given in their offices and the patients' homes, out-of-hospital diagnostic procedures, and preventive care, and which plans are offered by organizations which have successfully operated similar plans before approval by the Commission of the plan in which employees may enroll.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 602.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3003	Sept. 28, 1959, Pub. L. 86-382, § 4, 73 Stat. 711. July 8, 1963, Pub. L. 88-59, § 1(b), 77 Stat. 77.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in sections 8901, 8902, 8904, 8905, 8907, 8909, 8913 of this title; title 42 section 1395s.

§ 8904. Types of benefits

The benefits to be provided under plans described by section 8903 of this title may be of the following types:

(1) **Service Benefit Plan.**—
  (A) Hospital benefits.
  (B) Surgical benefits.
  (C) In-hospital medical benefits.
  (D) Ambulatory patient benefits.
  (E) Supplemental benefits.
  (F) Obstetrical benefits.

(2) **Indemnity Benefit Plan.**—
  (A) Hospital care.
  (B) Surgical care and treatment.
  (C) Medical care and treatment.
  (D) Obstetrical benefits.
  (E) Prescribed drugs, medicines, and prosthetic devices.
  (F) Other medical supplies and services.

(3) **Employee Organization Plans.**—Benefits of the types named under paragraph (1) or (2) of this section or both.

(4) **Comprehensive Medical Plans.**—Benefits of the types named under paragraph (1) or (2) of this section or both.

All plans contracted for under paragraphs (1) and (2) of this section shall include benefits both for costs associated with care in a general hospital and for other health services of a catastrophic nature.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 603.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3004	Sept. 28, 1959, Pub. L. 86-382, § 5, 73 Stat. 712.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Section Referred to in Other Sections

This section is referred to in section 8903 of this title.

§ 8905. Election of coverage

(a) An employee may enroll in an approved health benefits plan described by section 8903 of this title either as an individual or for self and family.

(b) An annuitant who at the time he becomes an annuitant was enrolled in a health benefits plan under this chapter—

(1) as an employee for a period of not less than—

(A) the 5 years of service immediately before retirement;

(B) the full period or periods of service between the last day of the first period, as prescribed by regulations of the Civil Service Commission, in which he is eligible to enroll in the plan and the date on which he becomes an annuitant; or

(C) the full period or periods of service beginning with the enrollment which became effective before January 1, 1965, and ending with the date on which he becomes an annuitant;

whichever is shortest; or

(2) as a member of the family of an employee or annuitant;

may continue his enrollment under the conditions of eligibility prescribed by regulations of the Commission.

(c) If an employee has a spouse who is an employee, either spouse, but not both, may enroll for self and family, or each spouse may enroll as an individual. However, an individual may not be enrolled both as an employee or annuitant and as a member of the family.

(d) An employee or annuitant enrolled in a health benefits plan under this chapter may change his coverage or that of himself and members of his family by an application filed within 60 days after a change in family status or at other times and under conditions prescribed by regulations of the Commission.

(e) An employee or annuitant may transfer his enrollment from a health benefits plan described by section 8903 of this title to another plan described by that section at the times and under the conditions prescribed by regulations of the Commission.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 603.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3002(a) 1st sentence, less words between 1st and 4th commas), (b)-(e).	Sept. 28, 1959, Pub. L. 86-382, § 3(a) 1st sentence, less words between 1st and 4th commas), (b)-(e), 73 Stat. 710. Mar. 17, 1964, Pub. L. 88-284, § 1(5), 78 Stat. 164.

In subsection (b)(1), the words "as an employee" are inserted for clarity.

In subsection (b)(1)(C), the words "before January 1, 1965" are substituted for "not later than December 31, 1964".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

ELECTION OF HEALTH BENEFITS COVERAGE AND ENTITLEMENT TO HEALTH BENEFITS UNDER THIS CHAPTER RATHER THAN UNDER RETIRED FEDERAL EMPLOYEES HEALTH BENEFITS ACT

Pub. L. 93-246, §§ 2, 4(b), Jan. 31, 1974, 88 Stat. 4, provided that:

"SEC. 2. (a) Notwithstanding any other provision of law, an annuitant, as defined under section 8901(3) of title 5, United States Code, who is participating or who is eligible to participate in the health benefits program offered under the Retired Federal Employees Health Benefits Act (74 Stat. 849; Public Law 86-724), may elect, in accordance with regulations prescribed by the United States Civil Service Commission, to be covered under the provisions of chapter 89 of title 5, United States Code [this chapter], in lieu of coverage under such Act.

"(b) An annuitant who elects to be covered under the provisions of chapter 89 of title 5, United States Code [this chapter], in accordance with subsection (a) of this section, shall be entitled to the benefits under such chapter 89.

"[Sec. 4] (b) Section 2 [set out above] shall take effect on the one hundred and eightieth day following the date of enactment [Jan. 1, 1974] or on such earlier date as the United States Civil Service Commission may prescribe."

§ 8906. Contributions

(a) The Commission shall determine the average of the subscription charges in effect on the beginning date of each contract year with respect to self alone or self and family enrollments under this chapter, as applicable, for the highest level of benefits offered by—

(1) the service benefit plan;

(2) the indemnity benefit plan;

(3) the two employee organization plans with the largest number of enrollments, as determined by the Commission.

(4) the two comprehensive medical plans with the largest number of enrollments, as determined by the Commission.

(b)(1) Except as provided by paragraph (2) of this subsection, the biweekly Government contribution for health benefits for an employee or annuitant enrolled in a health benefits plan under this chapter shall be adjusted, beginning on the first day of the first applicable pay period of each year, to an amount equal to the following percentage, as applicable, of the average subscription charge determined under subsection (a) of this section: 50 percent for applicable pay periods commencing in 1974 and 60 percent for applicable pay periods commencing in 1975 and in each year thereafter.

(2) The biweekly Government contribution for an employee or annuitant enrolled in a plan under this chapter shall not exceed 75 percent of the subscription charge.

(c) There shall be withheld from the pay of each enrolled employee and the annuity of each enrolled annuitant and there shall be contributed by the Government, amounts, in the same ratio as the contributions of the employee or annuitant and the Government under subsection (b) of this section, which are necessary for the administrative costs and the reserves provided for by section 8909(b) of this title.

(d) The amount necessary to pay the total charge for enrollment, after the Government contribution is deducted, shall be withheld from the pay of each enrolled employee and from the annuity of each enrolled annuitant. The withholding for an annuitant shall be the same as that for an employee enrolled in the same health benefits plan and level of benefits.

(e)(1) An employee enrolled in a health benefits plan under this chapter who is placed in a leave without pay status may have his coverage and the coverage of members of his family continued under the plan for not to exceed 1 year under regulations prescribed by the Commission. The regulations may provide for the waiving of contributions by the employee and the Government.

(2) An employee who enters on approved leave without pay to serve as a full-time officer or employee of an organization composed primarily of employees as defined by section 8901 of this title, within 60 days after entering on that leave without pay, may file with his employing agency an election to continue his health benefits enrollment and arrange to pay currently into the Employees Health Benefits Fund, through his employing agency, both employee and agency contributions from the beginning of leave without pay. The employing agency shall forward the enrollment charges so paid to the Fund. If the employee does not so elect, his enrollment will continue during nonpay status and end as provided by paragraph (1) of this subsection and implementing regulations.

(f) The Government contributions for health benefits for an employee shall be paid—

(1) in the case of employees generally, from the appropriation or fund which is used to pay the employee;

(2) in the case of an elected official, from an appropriation or fund available for payment of other salaries of the same office or establishment;

(3) in the case of an employee of the legislative branch who is paid by the Clerk of the House of Representatives, from the contingent fund of the House; and

(4) in the case of an employee in a leave without pay status, from the appropriation or fund which would be used to pay the employee if he were in a pay status.

(g) The Government contributions authorized by this section for health benefits for an annuitant shall be paid from annual appropriations which are authorized to be made for that purpose and which may be made available until expended.

(h) The Commission shall provide for conversion of biweekly rates of contribution specified by this section to rates for employees and annuitants paid on other than a biweekly basis, and for this purpose may provide for the adjustment of the converted rate to the nearest cent.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 604; Pub. L. 90-83, § 1(96), Sept. 11, 1967, 81 Stat. 219; Pub. L. 91-418, § 1(a), Sept. 25, 1970, 84 Stat. 869; Pub. L. 93-246, § 1, Jan. 31, 1974, 88 Stat. 3; Pub. L. 94-310, § 3(a), June 15, 1976, 90 Stat. 687.)

HISTORICAL AND REVISION NOTES

1966 ACT

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3006	Sept. 28, 1959, Pub. L. 86-382, § 7, 73 Stat. 713. Mar. 17, 1964, Pub. L. 88-284, § 1(10), (11), 78 Stat. 165.

In subsection (f)(1), the words "in the case of employees generally" are inserted for clarity.

In subsection (h), the word "biweekly" is inserted for clarity.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

1967 ACT

Section of title 5	*Source (U.S. Code)*	*Source (Statutes at Large)*
8906(a)	5 App.: 3006(a)(1)	July 18, 1966, Pub. L. 89-504, §§ 406(b), 602, 80 Stat. 298, 303.
8906(b)	5 App.: 3006(a)(2)	
8906(e)(2)	5 App.: 3006(b)(2)	

In subsection (a), the words "subsection (b) of this section", "this chapter", and "subsection (c) of this section" are substituted for "paragraph (2) of this subsection", "this Act", and "paragraph (3)", respectively, to reflect the codification of title 5, United States Code.

In subsection (e)(2), the words "as defined by section 8901 of this title" are substituted for "as defined in section 2 of this Act" to reflect the codification of that section in 5 U.S.C. 8901. The words "Employees Health Benefits Fund" and "Fund" are substituted for "fund" and "fund", respectively. In the penultimate sentence, the words "will continue during nonpay status and end" are substituted for "will terminate" for clarity and on authority of 5 U.S.C. 8906(e)(1).

AMENDMENTS

1976—Subsec. (g). Pub. L. 94-310 provided for payment of Government contributions from annual appropriations which may be made available until expended.

1974—Subsec. (a). Pub. L. 93-246, § 1(a), deleted introductory text "Except as provided by subsection (b) of this section, the biweekly Government contribution for health benefits for employees or annuitants enrolled in health benefits plans under this chapter shall be adjusted", now incorporated in subsec. (b)(1) of this section, required Commission determination of average of subscription charges, and reenacted remainder of existing provisions, substituting "beginning date of each contract year" for "beginning date of the adjustment".

Subsec. (b)(1). Pub. L. 93-246, § 1(a), incorporated introductory text of former subsec. (a) reading "Except as provided by subsection (b) of this section, the biweekly Government contribution for health benefits for employees or annuitants enrolled in health benefits plans under this chapter shall be adjusted", as initial text of provisions designated as subsec. (b)(1), substituted provision for amount of biweekly Government contribution equal to 50 percent of average subscription charge for applicable pay periods commencing in 1974 and 60 percent for applicable pay periods commencing in 1975, and annually thereafter, for former subsec. (a) provision for an amount equal to 40 percent of average of subscription charges and former subsec. (b) provision for 50 percent of subscription charge where the biweekly subscription charge was less than twice the Government contribution.

Subsec. (b)(2). Pub. L. 93-246, § 1(a), added par. (2).

Subsec. (c). Pub. L. 93-246, § 1(b), deleted reference to subsec. (a).

Subsec. (g). Pub. L. 93-246, § 1(c), substituted "by this section" for "by subsection (a) of this section".

1970—Subsec. (a). Pub. L. 91-418, in increasing the Government contribution to the cost of health benefits insurance, substituted provision for adjustment of such contribution, beginning on the first day of the first pay period of each year, to an amount equal to 40 percent of the adjustment, with respect to self alone or self and family enrollments, as applicable, for the highest level of benefits offered by the service benefit plan, the indemnity benefit plan, the two employee organization plans, and the two comprehensive medical plans, for prior provision for a contribution, in addition to requirement of subsec. (c) of this section, of $1.62 if the enrollment is for self or $3.94 if the enrollment is for self and family.

Effective Date of 1976 Amendment.

Amendment by Pub. L. 94-310 effective Oct. 1, 1976, see note set out under section 130b of Title 2, The Congress.

Effective Date of 1974 Amendment

Section 4(a) of Pub. L. 93-246 provided that: "The first section of this Act [amending subsecs. (a) to (c) and (g) of this section] shall take effect on the first day of the first applicable pay period which begins on or after January 1, 1974."

Section 4(d) of Pub. L. 93-246 provided that: "The determination of the average of subscription charges and the adjustment of the Government contributions for 1973, under section 8906 of title 5, United States Code, as amended by the first section of this Act [amending subsecs. (a) to (c) and (g) of this section], shall take effect on the first day of the first applicable pay period which begins on or after the thirtieth day following the date of enactment of this Act [Jan. 31, 1974]."

Effective Date of 1970 Amendment

Section 1(b) of Pub. L. 91-418 provided that: "The amendment made by subsection (a) of this section [to subsec. (a) of this section] shall become effective at the beginning of the first applicable pay period which commences after December 31, 1970."

Election of Health Benefits During Period of Service as Officer or Employee of an Employee Organization; Contributions into Employees Health Benefits Fund; Non-Election; Regulations

Election of health benefits within sixty days after July 18, 1966, by certain employees on leave without pay for service as officer or employee of an employee organization, contributions into Fund, effect of non-election of benefits, and regulations, see note set out under section 8706 of this title.

Section Referred to in Other Sections

This section is referred to in section 8909 of this title; title 42 section 1395s.

§ 8907. Information to employees

(a) The Civil Service Commission shall make available to each employee eligible to enroll in a health benefits plan under this chapter such information, in a form acceptable to the Commission after consultation with the carrier, as may be necessary to enable the employee to exercise an informed choice among the types of plans described by section 8903 of this title.

(b) Each employee enrolled in a health benefits plan shall be issued an appropriate document setting forth or summarizing the—

(1) services or benefits, including maximums, limitations, and exclusions, to which the employee or the employee and members of his family are entitled thereunder;

(2) procedure for obtaining benefits; and

(3) principal provisions of the plan affecting the employee or members of his family.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 605.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3009 (d).	Sept. 28, 1959, Pub. L. 86-382, § 10(d), 73 Stat. 715.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8908. Coverage of restored employees and survivor annuitants

(a) An employee enrolled in a health benefits plan under this chapter who is removed or suspended without pay and later reinstated or restored to duty on the ground that the removal or suspension was unjustified or unwarranted may, at his option, enroll as a new employee or have his coverage restored, with appropriate adjustments made in contributions and claims, to the same extent and effect as though the removal or suspension had not taken place.

(b) A surviving spouse whose survivor annuity under this title was terminated because of remarriage and is later restored may, under such regulations as the Civil Service Commission may prescribe, enroll in a health benefits plan described by section 8903 of this title if such spouse was covered by any such plan immediately before such annuity was terminated.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 605; Pub. L. 94-342, § 1(a), July 6, 1976, 90 Stat. 808.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3009 (c).	Sept. 28, 1959, Pub. L. 86-382, § 10(c), 73 Stat. 715. Mar. 17, 1964, Pub. L. 88-284, § 1 (less (1)-(13)), 78 Stat. 165.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

Amendments

1976—Pub. L. 94-342 designated existing provision as subsec. (a), added subsec. (b), and substituted "employees and survivor annuitants" for "employee" in the section catchline.

Effective Date of 1976 Amendment

Section 2 of Pub. L. 94-342 provided that: "The amendments made by the first section of this Act [amending this section] shall take effect on October 1, 1976, or on the date of the enactment of this Act [July 6, 1976], whichever date is later. Such amendments shall apply with respect to individuals whose survivor annuities are restored before, on, or after such date."

§ 8909. Employees Health Benefits Fund

(a) There is in the Treasury of the United States an Employees Health Benefits Fund which is administered by the Civil Service Commission. The contributions of employees, annuitants, and the Government described by section 8906 of this title shall be paid into the Fund. The Fund is available—

(1) without fiscal year limitation for all payments to approved health benefits plans; and

(2) to pay expenses for administering this chapter within the limitations that may be specified annually by Congress.

(b) Portions of the contributions made by employees, annuitants, and the Government shall be regularly set aside in the Fund as follows:

(1) A percentage, not to exceed 1 percent of all contributions, determined by the Commission to be reasonably adequate to pay the administrative expenses made available by subsection (a) of this section.

(2) For each health benefits plan, a percentage, not to exceed 3 percent of the contribu-

tions toward the plan, determined by the Commission to be reasonably adequate to provide a contingency reserve.

The Commission, from time to time and in amounts it considers appropriate, may transfer unused funds for administrative expenses to the contingency reserves of the plans then under contract with the Commission. When funds are so transferred, each contingency reserve shall be credited in proportion to the total amount of the subscription charges paid and accrued to the plan for the contract term immediately before the contract term in which the transfer is made. The income derived from dividends, rate adjustments, or other refunds made by a plan shall be credited to its contingency reserve. The contingency reserves may be used to defray increases in future rates, or may be applied to reduce the contributions of employees and the Government to, or to increase the benefits provided by, the plan from which the reserves are derived, as the Commission from time to time shall determine.

(c) The Secretary of the Treasury may invest and reinvest any of the money in the Fund in interest-bearing obligations of the United States, and may sell these obligations for the purposes of the Fund. The interest on and the proceeds from the sale of these obligations become a part of the Fund.

(d) When the assets, liabilities, and membership of employee organizations sponsoring or underwriting plans approved under section 8903(3) of this title are merged, the assets (including contingency reserves) and liabilities of the plans sponsored or underwritten by the merged organizations shall be transferred at the beginning of the contract term next following the date of the merger to the plan sponsored or underwritten by the successor organization. Each employee or annuitant affected by a merger shall be transferred to the plan sponsored or underwritten by the successor organization unless he enrolls in another plan under this chapter.

(e) Except as provided by subsection (d) of this section, when a plan described by section 8903(3) or (4) of this title is discontinued under this chapter, the contingency reserve of that plan shall be credited to the contingency reserves of the plans continuing under this chapter for the contract term following that in which termination occurs, each reserve to be credited in proportion to the amount of the subscription charges paid and accrued to the plan for the year of termination.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 605.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3007	Sept. 28, 1959, Pub. L. 86-382, § 8, 73 Stat. 714. Mar. 17, 1964, Pub. L. 88-284, § 1(12), (13), 78 Stat. 165.
....	5 U.S.C. 3008 (b).	Sept. 23, 1959, Pub. L. 86-382, § 9(b), 73 Stat. 715.

In subsection (a), the words "hereby created" are omitted as executed. The words "hereinafter referred to as the 'Fund'" are omitted as unnecessary. The words "to reimburse the Employees Health Benefits Fund for sums expended by the Commission in administering the provisions of this chapter for the fiscal years 1960 and 1961" in former section 3008(b) are omitted as executed.

In subsection (d), the requirement that the assets and liabilities of plans of organizations that have been merged be transferred at the beginning of the contract term next following the date of the merger or enactment of this subsection is omitted as executed. The next beginning contract term referred to was November 1, 1964, and the transfers have been made. In the last sentence, the word "hereafter" is omitted as unnecessary.

In subsection (e), the word "is" is substituted for "is or has been" as this title is stated prospectively, and any existing rights and duties are preserved by technical section 8.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface of the report.

Section Referred to in Other Sections

This section is referred to in section 8906 of this title; title 25 section 450i.

§ 8910. Studies, reports, and audits

(a) The Civil Service Commission shall make a continuing study of the operation and administration of this chapter, including surveys and reports on health benefits plans available to employees and on the experience of the plans.

(b) Each contract entered into under section 8902 of this title shall contain provisions requiring carriers to—

(1) furnish such reasonable reports as the Commission determines to be necessary to enable it to carry out its functions under this chapter; and

(2) permit the Commission and representatives of the General Accounting Office to examine records of the carriers as may be necessary to carry out the purposes of this chapter.

(c) Each Government agency shall keep such records, make such certifications, and furnish the Commission with such information and reports as may be necessary to enable the Commission to carry out its functions under this chapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 606.)

Historical and Revision Notes

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3010	Sept. 28, 1959, Pub. L. 86-382, § 11, 73 Stat. 716.

In subsection (b), the word "agency" is substituted for "department, agency, and independent establishment".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8911. Advisory committee

The Chairman of the Civil Service Commission shall appoint a committee composed of five members, who serve without pay, to advise the Commission regarding matters of concern to employees under this chapter. Each member of the committee shall be an employee enrolled under this chapter or an elected official of an employee organization.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 607.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3012	Sept. 28, 1959, Pub. L. 86-382, § 13, 73 Stat. 716.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

TERMINATION OF ADVISORY COMMITTEES

Advisory Committees in existence on Jan. 5, 1973, to terminate not later than the expiration of the two-year period following Jan. 5, 1973, unless, in the case of a committee established by the President or an officer of the Federal Government, such committee is renewed by appropriate action prior to the expiration of such two-year period, or in the case of a committee established by the Congress, its duration is otherwise provided by law, see section 14 of Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770, set out in the Appendix to this title.

§ 8912. Jurisdiction of courts

The district courts of the United States have original jurisdiction, concurrent with the Court of Claims, of a civil action or claim against the United States founded on this chapter.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 607.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
....	5 U.S.C. 3014	Sept. 28, 1959, Pub. L. 86-382, § 15, 73 Stat. 716.

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

§ 8913. Regulations

(a) The Civil Service Commission may prescribe regulations necessary to carry out this chapter.

(b) The regulations of the Commission may prescribe the time at which and the manner and conditions under which an employee is eligible to enroll in an approved health benefits plan described by section 8903 of this title. The regulations may exclude an employee on the basis of the nature and type of his employment or conditions pertaining to it, such as short-term appointment, seasonal or intermittent employment, and employment of like nature. The Commission may not exclude—

(1) an employee or group of employees solely on the basis of the hazardous nature of employment; or

(2) a teacher in the employ of the Board of Education of the District of Columbia, whose pay is fixed by section 1501 of title 31, District of Columbia Code, on the basis of the fact that the teacher is serving under a temporary appointment if the teacher has been so employed by the Board for a period or periods totaling not less than two school years.

(c) The regulations of the Commission shall provide for the beginning and ending dates of coverage of employees and annuitants and members of their families under health benefit plans. The regulations may permit the coverage to continue, exclusive of the temporary extension of coverage described by section 8902(g) of this title, until the end of the pay period in which an employee is separated from the service, or until the end of the month in which an annuitant ceases to be entitled to annuity, and in case of the death of an employee or annuitant, may permit a temporary extension of the coverage of members of his family for not to exceed 90 days.

(d) The Secretary of Agriculture shall prescribe regulations to effect the application and operation of this chapter to an individual named by section 8901(1)(H) of this title.

(Pub. L. 89-554, Sept. 6, 1966, 80 Stat. 607.)

HISTORICAL AND REVISION NOTES

Derivation	*U.S. Code*	*Revised Statutes and Statutes at Large*
(a)	5 U.S.C. 3009 (a).	Sept. 28, 1959, Pub. L. 86-382, § 10(a), 73 Stat. 715.
(b)	5 U.S.C. 3002 (a) (words between 1st and 4th commas of 1st sentence),	Sept. 28, 1959, Pub. L. 86-382, § 3(a) (words between 1st and 4th commas of 1st sentence, and 2d sentence), 73 Stat. 710.
	(f) (words between 1st and 2d commas of 1st sentence).	July 1, 1960, Pub. L. 86-568, § 115(d) "(f) (words between 1st and 2d commas of 1st sentence)", 74 Stat. 303.
		Oct. 6, 1964, Pub. L. 88-631, § 1, 78 Stat. 1007.
(c)	5 U.S.C. 3009 (b).	Sept. 28, 1959, Pub. L. 86-382, § 10(b), 73 Stat. 715.
(d)	5 U.S.C. 3002 (f) (2d sentence).	July 1, 1960, Pub. L. 86-568, § 115(d) "(f) (2d sentence)", 74 Stat. 303.

In subsection (b)(2), the words "section 1501 of title 31, District of Columbia Code" are substituted for "section 1 of the District of Columbia Teachers' Salary Act of 1955 (69 Stat. 521), as amended (sec. 31-1501, D.C. Code, 1961 edition)".

Standard changes are made to conform with the definitions applicable and the style of this title as outlined in the preface to the report.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 8901 of this title.

TITLE 5—APPENDIX

This Appendix contains the Federal Advisory Committee Act and Reorganization Plans.

FEDERAL ADVISORY COMMITTEE ACT

Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770

§ 1. Short title

This Act may be cited as the "Federal Advisory Committee Act".

ACT REFERRED TO IN OTHER SECTIONS

This Act is referred to in title 12 section 1428a; title 15 sections 78k-1, 776; title 16 sections 463, 470q, 541g, 1612; title 19 section 2155; title 29 section 1302; title 42 sections 300j-5, 300k-3, 5816, 6007, 6708, 6838, 6881, 6979; title 43 sections 1731, 1739; title 49 section 1903; title 50 App. section 2169.

§ 2. Findings and purpose

(a) The Congress finds that there are numerous committees, boards, commissions, councils, and similar groups which have been established to advise officers and agencies in the executive branch of the Federal Government and that they are frequently a useful and beneficial means of furnishing expert advice, ideas, and diverse opinions to the Federal Government.

(b) The Congress further finds and declares that—

(1) the need for many existing advisory committees has not been adequately reviewed;

(2) new advisory committees should be established only when they are determined to be essential and their number should be kept to the minimum necessary;

(3) advisory committees should be terminated when they are no longer carrying out the purposes for which they were established;

(4) standards and uniform procedures should govern the establishment, operation, administration, and duration of advisory committees;

(5) the Congress and the public should be kept informed with respect to the number, purpose, membership, activities, and cost of advisory committees; and

(6) the function of advisory committees should be advisory only, and that all matters under their consideration should be determined, in accordance with law, by the official, agency, or officer involved.

EXECUTIVE ORDER NO. 11686

Ex. Ord. No. 11686, Oct. 7, 1972, 37 F.R. 21421, formerly set out as a note under this section, which related to committee management, was superseded by Ex. Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, set out as a note under this section.

EX. ORD. NO. 11769. COMMITTEE MANAGEMENT

Ex. Ord. No. 11769, Feb. 21, 1974, 39 F.R. 7125, provided:

By virtue of the authority vested in me as President of the United States by the Constitution and statutes of the United States, including the Federal Advisory Committee Act, 5 U.S.C. App. I (1972 Supp.) (hereinafter referred to as the "act") [this Appendix], and 3 U.S.C. 301 it is ordered as follows:

SECTION 1. The heads of all executive departments and agencies shall take appropriate action to assure their ability to comply with the provisions of the act.

SEC. 2. The Administrator of General Services shall prepare for the consideration of the President the annual report to the Congress required by section 6(c) of the act [section 6(c) of this Appendix].

SEC. 3. The Director of the Office of Management and Budget shall:

(1) perform, or designate, from time to time, other officers of the Federal Government to perform, without the approval, ratification, or other action of the President, the functions vested in the President by the act;

(2) prescribe administrative guidelines and management controls for advisory committees covered by the act.

SEC. 4. Executive Order No. 11686 of October 7, 1972 is hereby superseded.

RICHARD NIXON.

§ 3. Definitions

For the purpose of this Act—

(1) The term "Director" means the Director of the Office of Management and Budget.

(2) The term "advisory committee" means any committee, board, commission, council, conference, panel, task force, or other similar group, or any subcommittee or other subgroup thereof (hereafter in this paragraph referred to as "committee"), which is—

(A) established by statute or reorganization plan, or

(B) established or utilized by the President, or

(C) established or utilized by one or more agencies,

in the interest of obtaining advice or recommendations for the President or one or more agencies or officers of the Federal Government, except that such term excludes (i) the Advisory Commission on Intergovernmental Relations, (ii) the Commission on Government Procurement, and (iii) any committee which is composed wholly of full-time officers or employees of the Federal Government.

(3) The term "agency" has the same meaning as in section 551(1) of Title 5.

(4) The term "Presidential advisory committee" means an advisory committee which advises the President.

§ 4. Applicability; restrictions

(a) The provisions of this Act or of any rule, order, or regulation promulgated under this Act shall apply to each advisory committee except to the extent that any Act of Congress establishing any such advisory committee specifically provides otherwise.

(b) Nothing in this Act shall be construed to apply to any advisory committee established or utilized by—

(1) the Central Intelligence Agency; or

(2) the Federal Reserve System.

(c) Nothing in this Act shall be construed to apply to any local civic group whose primary function is that of rendering a public service with respect to a Federal program, or any State or local committee, council, board, commission, or similar group established to advise or make recommendations to State or local officials or agencies.

§ 5. Responsibilities of Congressional committees; review; guidelines

(a) In the exercise of its legislative review function, each standing committee of the Senate and the House of Representatives shall make a continuing review of the activities of each advisory committee under its jurisdiction to determine whether such advisory committee should be abolished or merged with any other advisory committee, whether the responsibilities of such advisory committee should be revised, and whether such advisory committee performs a necessary function not already being performed. Each such standing committee shall take appropriate action to obtain the enactment of legislation necessary to carry out the purpose of this subsection.

(b) In considering legislation establishing, or authorizing the establishment of any advisory committee, each standing committee of the Senate and of the House of Representatives shall determine, and report such determination to the Senate or to the House of Representatives, as the case may be, whether the functions of the proposed advisory committee are being or could be performed by one or more agencies or by an advisory committee already in existence, or by enlarging the mandate of an existing advisory committee. Any such legislation shall—

(1) contain a clearly defined purpose for the advisory committee;

(2) require the membership of the advisory committee to be fairly balanced in terms of the points of view represented and the functions to be performed by the advisory committee;

(3) contain appropriate provisions to assure that the advice and recommendations of the advisory committee will not be inappropriately influenced by the appointing authority or by any special interest, but will instead be the result of the advisory committee's independent judgment;

(4) contain provisions dealing with authorization of appropriations, the date for submission of reports (if any), the duration of the advisory committee, and the publication of reports and other materials, to the extent that the standing committee determines the provisions of section 10 of this Act to be inadequate; and

(5) contain provisions which will assure that the advisory committee will have adequate staff (either supplied by an agency or employed by it), will be provided adequate quarters, and will have funds available to meet its other necessary expenses.

(c) To the extent they are applicable, the guidelines set out in subsection (b) of this section shall be followed by the President, agency heads, or other Federal officials in creating an advisory committee.

§ 6. Responsibilities of the President; report to Congress; annual report to Congress; exclusion

(a) The President may delegate responsibility for evaluating and taking action, where appropriate, with respect to all public recommendations made to him by Presidential advisory committees.

(b) Within one year after a Presidential advisory committee has submitted a public report to the President, the President or his delegate shall make a report to the Congress stating either his proposals for action or his reasons for inaction, with respect to the recommendations contained in the public report.

(c) The President shall, not later than March 31 of each calendar year (after the year in which this Act is enacted), make an annual report to the Congress on the activities, status, and changes in the composition of advisory committees in existence during the preceding calendar year. The report shall contain the name of every advisory committee, the date of and authority for its creation, its termination date or the date it is to make a report, its functions, a reference to the reports it has submitted, a statement of whether it is an ad hoc or continuing body, the dates of its meetings, the names and occupations of its current members, and the total estimated annual cost to the United States to fund, service, supply, and maintain such committee. Such report shall include a list of those advisory committees abolished by the President, and in the case of advisory committees established by statute, a list of those advisory committees which the President recommends be abolished together with his reasons therefor. The President shall exclude from this report any information which, in his judgment, should be withheld for reasons of national security, and he shall include in such report a statement that such information is excluded.

§ 7. Responsibilities of the Director, Office of Management and Budget; Committee Management Secretariat, establishment; review; recommendations to President and Congress; agency cooperation; performance guidelines; uniform pay guidelines; travel expenses; expense recommendations

(a) The Director shall establish and maintain within the Office of Management and Budget a Committee Management Secretariat, which shall be responsible for all matters relating to advisory committees.

(b) The Director shall, immediately after October 6, 1972, institute a comprehensive review of the activities and responsibilities of each advisory committee to determine—

(1) whether such committee is carrying out its purpose;

(2) whether, consistent with the provisions of applicable statutes, the responsibilities assigned to it should be revised;

(3) whether it should be merged with other advisory committees; or

(4) whether it should be abolished.

The Director may from time to time request such information as he deems necessary to carry out his functions under this subsection. Upon the completion of the Director's review he shall make recommendations to the President and to either the agency head or the Congress with respect to action he believes should be taken. Thereafter, the Director shall carry out a similar review annually. Agency heads shall cooperate with the Director in making the reviews required by this subsection.

(c) The Director shall prescribe administrative guidelines and management controls applicable to advisory committees, and, to the maximum extent feasible, provide advice, assistance, and guidance to advisory committees to improve their performance. In carrying out his functions under this subsection, the Director shall consider the recommendations of each agency head with respect to means of improving the performance of advisory committees whose duties are related to such agency.

(d)(1) The Director, after study and consultation with the Civil Service Commission, shall establish guidelines with respect to uniform fair rates of pay for comparable services of members, staffs, and consultants of advisory committees in a manner which gives appropriate recognition to the responsibilities and qualifications required and other relevant factors. Such regulations shall provide that—

(A) no member of any advisory committee or of the staff of any advisory committee shall receive compensation at a rate in excess of the rate specified for GS-18 of the General Schedule under section 5332 of Title 5; and

(B) such members, while engaged in the performance of their duties away from their homes or regular places of business, may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of Title 5 for persons employed intermittently in the Government service.

(2) Nothing in this subsection shall prevent—

(A) an individual who (without regard to his service with an advisory committee) is a full-time employee of the United States, or

(B) an individual who immediately before his service with an advisory committee was such an employee,

from receiving compensation at the rate at which he otherwise would be compensated (or was compensated) as a full-time employee of the United States.

(e) The Director shall include in budget recommendations a summary of the amounts he deems necessary for the expenses of advisory committees, including the expenses for publication of reports where appropriate.

§ 8. Responsibilities of agency heads; Advisory Committee Management Officer, designation

(a) Each agency head shall establish uniform administrative guidelines and management controls for advisory committees established by that agency, which shall be consistent with directives of the Director under section 7 and section 10. Each agency shall maintain systematic information on the nature, functions, and operations of each advisory committee within its jurisdiction.

(b) The head of each agency which has an advisory committee shall designate an Advisory Committee Management Officer who shall—

(1) exercise control and supervision over the establishment, procedures, and accomplishments of advisory committees established by that agency;

(2) assemble and maintain the reports, records, and other papers of any such committee during its existence; and

(3) carry out, on behalf of that agency, the provisions of section 552 of Title 5, with respect to such reports, records, and other papers.

§ 9. Establishment and purpose of advisory committees; publication in Federal Register; charter: filing, contents, copy

(a) No advisory committee shall be established unless such establishment is—

(1) specifically authorized by statute or by the President; or

(2) determined as a matter of formal record, by the head of the agency involved after consultation with the Director, with timely notice published in the Federal Register, to be in the public interest in connection with the performance of duties imposed on that agency by law.

(b) Unless otherwise specifically provided by statute or Presidential directive, advisory committees shall be utilized solely for advisory functions. Determinations of action to be taken and policy to be expressed with respect to matters upon which an advisory committee reports or makes recommendations shall be made solely by the President or an officer of the Federal Government.

(c) No advisory committee shall meet or take any action until an advisory committee charter has been filed with (1) the Director, in the case of Presidential advisory committees, or (2) with the head of the agency to whom any advisory committee reports and with the standing committees of the Senate and of the House of Representatives having legislative jurisdiction of such agency. Such charter shall contain the following information:

(A) the committee's official designation;

(B) the committee's objectives and the scope of its activity;

(C) the period of time necessary for the committee to carry out its purposes;

(D) the agency or official to whom the committee reports;

(E) the agency responsible for providing the necessary support for the committee;

(F) a description of the duties for which the committee is responsible, and, if such duties are not solely advisory, a specification of the authority for such functions;

(G) the estimated annual operating costs in dollars and man-years for such committee;

(H) the estimated number and frequency of committee meetings;

(I) the committee's termination date, if less than two years from the date of the committee's establishment; and

(J) the date the charter is filed.

A copy of any such charter shall also be furnished to the Library of Congress.

§ 10. Advisory committee procedures; meetings; notice, publication in Federal Register; regulations; minutes; certification; annual report; Federal officer or employee, attendance

(a)(1) Each advisory committee meeting shall be open to the public.

(2) Except when the President determines otherwise for reasons of national security, timely notice of each such meeting shall be published in the Federal Register, and the Director shall prescribe regulations to provide for other types of public notice to insure that all interested persons are notified of such meeting prior thereto.

(3) Interested persons shall be permitted to attend, appear before, or file statements with any advisory committee, subject to such reasonable rules or regulations as the Director may prescribe.

(b) Subject to section 552 of Title 5, the records, reports, transcripts, minutes, appendixes, working papers, drafts, studies, agenda, or other documents which were made available to or prepared for or by each advisory committee shall be available for public inspection and copying at a single location in the offices of the advisory committee or the agency to which the advisory committee reports until the advisory committee ceases to exist.

(c) Detailed minutes of each meeting of each advisory committee shall be kept and shall contain a record of the persons present, a complete and accurate description of matters discussed and conclusions reached, and copies of all reports received, issued, or approved by the advisory committee. The accuracy of all minutes shall be certified to by the chairman of the advisory committee.

(d) Subsections (a)(1) and (a)(3) of this section shall not apply to any portion of an advisory committee meeting where the President, or the head of the agency to which the advisory committee reports, determines that such portion of such meeting may be closed to the public in accordance with subsection (c) of section 552b of Title 5. Any such determination shall be in writing and shall contain the reasons for such determination. If such a determination is made, the advisory committee shall issue a report at least annually setting forth a summary of its activities and such related matters as would be informative to the public consistent with the policy of section 552(b) of Title 5.

(e) There shall be designated an officer or employee of the Federal Government to chair or attend each meeting of each advisory committee. The officer or employee so designated is authorized, whenever he determines it to be in the public interest, to adjourn any such meeting. No advisory committee shall conduct any meeting in the absence of that officer or employee.

(f) Advisory committees shall not hold any meetings except at the call of, or with the advance approval of, a designated officer or employee of the Federal Government, and in the case of advisory committees (other than Presidential advisory committees), with an agenda approved by such officer or employee.

(Pub. L. 92-463, Oct. 6, 1972, 86 Stat. 770; Pub. L. 94-409, § 5(c), Sept. 13, 1976, 90 Stat. 1247.)

AMENDMENTS

1976—Subsec. (d). Pub. L. 94-409 added "portion of an" following "to any" and substituted provisions relating to determinations for closing to the public such portion of the meeting in accordance with section 552b(c) of Title 5, for provisions relating to determinations of matters listed in section 552(b) of Title 5.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-409 effective 180 days after Sept. 13, 1976, see section 6 of Pub. L. 94-409, set out as a note under section 552b of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 2155; title 20 section 1233h.

§ 11. Availability of transcripts; "agency proceeding"

(a) Except where prohibited by contractual agreements entered into prior to the effective date of this Act, agencies and advisory committees shall make available to any person, at actual cost of duplication, copies of transcripts of agency proceedings or advisory committee meetings.

(b) As used in this section "agency proceeding" means any proceeding as defined in section 551(12) of Title 5.

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (a), as meaning effective upon expiration of ninety days following enactment of Pub. L. 92-463 on Oct. 6, 1972, see section 15 of Pub. L. 92-463.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 19 section 2155.

§ 12. Fiscal and administrative provisions; recordkeeping; audit; agency support services

(a) Each agency shall keep records as will fully disclose the disposition of any funds which may be at the disposal of its advisory committees and the nature and extent of their activities. The General Services Administration, or such other agency as the President may designate, shall maintain financial records with respect to Presidential advisory committees. The Comptroller General of the United States, or any of his authorized representatives, shall have access, for the purpose of audit and examination, to any such records.

(b) Each agency shall be responsible for providing support services for each advisory committee established by or reporting to it unless the establishing authority provides otherwise. Where any such advisory committee reports to more than one agency, only one agency shall be responsible for support services at any one time. In the case of Presidential advisory committees, such services may be provided by the General Services Administration.

§ 13. Responsibilities of Library of Congress; reports and background papers; depository

Subject to section 552 of Title 5, the Director shall provide for the filing with the Library of Congress of at least eight copies of each report made by every advisory committee and, where appropriate, background papers prepared by consultants. The Librarian of Congress shall establish a depository for such reports and papers where they shall be available to public inspection and use.

§ 14. Termination of advisory committees; renewal; continuation

(a)(1) Each advisory committee which is in existence on the effective date of this Act shall terminate not later than the expiration of the two-year period following such effective date unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or that officer by appropriate action prior to the expiration of such two-year period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(2) Each advisory committee established after such effective date shall terminate not later than the expiration of the two-year period beginning on the date of its establishment unless—

(A) in the case of an advisory committee established by the President or an officer of the Federal Government, such advisory committee is renewed by the President or such officer by appropriate action prior to the end of such period; or

(B) in the case of an advisory committee established by an Act of Congress, its duration is otherwise provided for by law.

(b)(1) Upon the renewal of any advisory committee, such advisory committee shall file a charter in accordance with section 9(c).

(2) Any advisory committee established by an Act of Congress shall file a charter in accordance with such section upon the expiration of each successive two-year period following the date of enactment of the Act establishing such advisory committee.

(3) No advisory committee required under this subsection to file a charter shall take any action (other than preparation and filing of such charter) prior to the date on which such charter is filed.

(c) Any advisory committee which is renewed by the President or any officer of the Federal Government may be continued only for successive two-year periods by appropriate action taken by the President or such officer prior to the date on which such advisory committee would otherwise terminate.

REFERENCES IN TEXT

Effective date of this Act, referred to in subsec. (a)(1), as meaning effective upon expiration of ninety days following enactment of Pub. L. 92-463 on Oct. 6, 1972, see section 15 of Pub. L. 92-463.

EXECUTIVE ORDER NO. 11827

Ex. Ord. No. 11827, Jan. 4, 1975, 40 F.R. 1217, formerly set out as a note under this section, which provided for the continuance of certain federal advisory committees, was superseded by Ex. Ord. No. 11948, Dec. 20, 1976, 41 F.R. 55705, set out as a note under this section.

EX. ORD. NO. 11948. CONTINUANCE OF CERTAIN FEDERAL ADVISORY COMMITTEES

Ex. Ord. No. 11948, Dec. 20, 1976, 41 F.R. 55705, provided:

By virtue of the authority vested in me by the Constitution and statutes of the United States of America, and as President of the United States of America, and in accordance with the provisions of the Federal Advisory Committee Act (5 U.S.C. App. I), it is hereby ordered as follows:

Sec. 1. Each advisory committee listed below is hereby continued until December 31, 1978:

(a) Citizens' Advisory Council on the Status of Women—Executive Order No. 11126, as amended (Department of Labor) [set out as a note under section 2000e of Title 42, Public Health and Welfare].

(b) Committee for the Preservation of the White House—Executive Order No. 11145, as amended (Department of the Interior) [set out as a note under section 110 of Title 3, The President].

(c) President's Commission on White House Fellowships—Executive Order No. 11183, as amended (United States Civil Service Commission).

(d) President's Committee on the National Medal of Science—Executive Order No. 11287, as amended (National Science Foundation) [set out as a note under section 1881 of Title 42, Public Health and Welfare].

(e) Quetico-Superior Committee—Executive Order No. 11342, as amended (Department of Agriculture).

(f) National Health Resources Advisory Committee—Executive Order No. 11415, as amended (General Services Administration) [set out as a note under section 454 of Title 50, Appendix, War and National Defense].

(g) Citizens' Advisory Committee on Environmental Quality—Executive Order No. 11472, as amended (Council on Environmental Quality) [set out as a note under section 4321 of Title 42, Public Health and Welfare].

(h) President's Council on Physical Fitness and Sports—Executive Order No. 11562, as amended (Department of Health, Education, and Welfare).

(i) Consumer Advisory Council—Executive Order No. 11583, as amended (Department of Health, Education, and Welfare) [set out as a note under section 887d of Title 20, Education].

(j) Advisory Council for Minority Enterprise—Executive Order No. 11625 of October 13, 1971 (Department of Commerce) [set out as a note under section 631 of Title 15, Commerce and Trade].

(k) President's Export Council—Executive Order No. 11753 of December 20, 1973 (Department of Commerce) [set out as a note under section 2401 of Title 50, Appendix, War and National Defense].

(*l*) President's Committee on Mental Retardation—Executive Order No. 11776 of March 28, 1974 (Department of Health, Education, and Welfare) [set out as a note preceding section 6001 of Title 42, Public Health and Welfare].

(m) Federal Advisory Council on Occupational Safety and Health—Executive Order No. 11807 of September 28, 1974 (Department of Labor) [set out as a note under section 7902 of this title].

Sec. 2. Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act which are applicable to the committees listed in Section 1 of this order, except that of reporting annually to Congress, shall be performed by the head of the department or agency designated after each committee in accordance with guidelines and procedures established by the Director of the Office of Management and Budget.

Sec. 3. Executive Order No. 11868, as amended, establishing the President's Commission on Olympic Sports, is revoked effective January 16, 1977.

Sec. 4. (a) The following Executive orders are revoked:

(1) Executive Order No. 11667 of April 19, 1972, establishing the President's Advisory Committee on the Environmental Awards Merit Program.

(2) Executive Order No. 11809 of September 30, 1974, establishing the President's Labor-Management Committee.

(3) Executive Order No. 11860 of May 19, 1975, establishing the President's Advisory Committee on Refugees.

(b) Executive Order No. 11827, as amended, is superseded.

Sec. 5. This order shall be effective December 31, 1976.

GERALD R. FORD.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 29 section 1142; title 42 sections 218, 300j-5, 300k-3.

§ 15. Effective date

Except as provided in section 7(b), this Act shall become effective upon the expiration of ninety days following October 6, 1972.

REORGANIZATION PLANS

This portion of the Appendix contains Reorganization Plans which took effect in accordance with the provisions of section 901 et seq. of this title.

REORGANIZATION PLAN NO. I OF 1939

Eff. July 1, 1939, 4 F.R. 2727, 53 Stat. 1423 by act June 7, 1939, ch. 193, 53 Stat. 813

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 25, 1939, pursuant to the provisions of the Reorganization Act of 1939, approved April 3, 1939.

PART 1. EXECUTIVE OFFICE OF THE PRESIDENT

§ 1. Bureau of the Budget

The Bureau of the Budget and all of its functions and personnel (including the Director and Assistant Director) are hereby transferred from the Treasury Department to the Executive Office of the President; and the functions of the Bureau of the Budget shall be administered by the Director thereof under the direction and supervision of the President.

§ 2. Central Statistical Board

The Central Statistical Board and all of its functions and personnel (including the Chairman and the members of the Board) are hereby transferred to the Bureau of the Budget in the Executive Office of the President. The Chairman of the Board shall perform such administrative duties as the Director of the Bureau of the Budget shall direct.

§ 3. Central Statistical Committee Abolished and Functions Transferred

The Central Statistical Committee is hereby abolished, and its functions are transferred to the Director of the Bureau of the Budget to be administered by him under the direction and supervision of the President. The Director of the Bureau of the Budget shall promptly wind up any outstanding affairs of the Central Statistical Committee.

§ 4. National Resources Planning Board

(a) The functions of the National Resources Committee, established by Executive Order No. 7065 of June 7, 1935, and its personnel (except the members of the Committee) and all of the functions of the Federal Employment Stabilization Office in the Department of Commerce and its personnel are hereby transferred to the Executive Office of the President. The functions transferred by this section are hereby consolidated, and they shall be administered under the direction and supervision of the President by the National Resources Planning Board (hereafter referred to as the Board), which shall be composed of five members to be appointed by the President. The President shall designate one of the members of the Board as Chairman and another as Vice Chairman. The Vice Chairman shall act as Chairman in the absence of the Chairman or in the event of a vacancy in that office. The members of the Board shall be compensated at the rate of $50 per day for time spent in attending and traveling to and from meetings, or in otherwise exercising the functions and duties of the Board, plus the actual cost of transportation: *Provided*, That in no case shall a member be entitled to receive compensation for more than thirty days' service in two consecutive months. [Functions of Board were authorized to be carried out until June 30, 1940, and provisions concerning composition of Board were contained in Emergency Relief Appropriation Act of 1939.]

(b) The Board shall determine the rules of its own proceedings, and a majority of its members in office shall constitute a quorum for the transaction of business, but the Board may function notwithstanding vacancies.

(c) The Board may appoint necessary officers and employees and may delegate to such officers authority to perform such duties and make such expenditures as may be necessary. [Board abolished August 31, 1943, by act June 26, 1943, ch. 145, title I, § 1, 57 Stat. 170, and records and files were transferred to the National Archives.]

§ 5. National Resources Committee Abolished

The National Resources Committee is hereby abolished, and its outstanding affairs shall be wound up by the National Resources Planning Board.

§ 6. Federal Employment Stabilization Office Abolished

The Federal Employment Stabilization Office is hereby abolished, and the Secretary of Commerce shall promptly wind up its affairs.

§ 7. Transfer of Records and Property

All records and property (including office equipment) of the several agencies transferred, or the functions of which are transferred, by this part are hereby transferred to the Executive Office of the President for use in the administration of the agencies and functions transferred by this part.

§ 8. Transfer of Funds

So much of the unexpended balances of appropriations, allocations, or other funds available (including those available for the fiscal year ending June 30, 1940) for the use of any agency in the exercise of any functions transferred by this part, or for the use of the head of any department or agency in the exercise of any functions so transferred, as the Director of the Bureau of the Budget shall determine, shall be transferred to the Executive Office of the President for use in connection with the exercise of functions transferred by this part. In determining the amount to be transferred the Director of the Bureau of the Budget may include an amount to provide for the liquidation of obligations incurred against such appropriations, allocations, or other funds prior to the transfer: *Provided*, That the use of the unexpended balances of appropriations, allocations, or other funds transferred by this section shall be subject to the provisions of section 4(d)(3) and section 9 of the Reorganization Act of 1939.

§ 9. Personnel

Any personnel transferred by this part found to be in excess of the personnel necessary for the efficient administration of the functions transferred by this part shall be retransferred under existing law to other positions in the Government service, or separated from the service subject to the provisions of section 10(a) of the Reorganization Act of 1939.

PART 2. FEDERAL SECURITY AGENCY

§ 201. FEDERAL SECURITY AGENCY

(a) The United States Employment Service in the Department of Labor and its functions and personnel are transferred from the Department of Labor; the Office of Education in the Department of the Interior and its functions and personnel (including the Commissioner of Education) are transferred from the Department of the Interior; the Public Health Service in the Department of the Treasury and its functions and personnel (including the Surgeon General of the Public Health Service) are transferred from the Department of the Treasury; the National Youth Administration within the Works Progress Administration and its functions and personnel (including its Administrator) are transferred from the Works Progress Administration; and these agencies and their functions, together with the Social Security Board and its functions, and the Civilian Conservation Corps and its functions, are hereby consolidated under one agency to be known as the Federal Security Agency, with a Federal Security Administrator at the head thereof. The Federal Security Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive a salary at the rate of $17,500 per annum. He shall have general direction and supervision over the administration of the several agencies consolidated into the Federal Security Agency by this section and shall be responsible for the coordination of their functions and activities.

(b) The Federal Security Administrator shall appoint an Assistant Federal Security Administrator, who shall receive a salary at the rate of $15,000 per annum, and he may also appoint such other personnel and make such expenditures as may be necessary.

(c) The Assistant Administrator shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in that office and shall perform such other duties as the Administrator shall direct.

(d) The several agencies and functions consolidated by this section into the Federal Security Agency shall carry with them their personnel. (As amended Oct. 15, 1949, ch. 695, §§ 3, 5 (a), 63 Stat. 880.)

§ 202. SOCIAL SECURITY BOARD

The Social Security Board and its functions shall be administered as a part of the Federal Security Agency under the direction and supervision of the Federal Security Administrator. The Chairman of the Social Security Board shall perform such administrative duties as the Federal Security Administrator shall direct.

§ 203. UNITED STATES EMPLOYMENT SERVICE

(a) The functions of the United States Employment Service shall be consolidated with the unemployment compensation functions of the Social Security Board and shall be administered in the Social Security Board in connection with such unemployment compensation functions under the direction and supervision of the Federal Security Administrator.

(b) The office of the Director of the United States Employment Service is hereby abolished, and all of the functions of such office are transferred to, and shall be exercised by, the Social Security Board.

(c) All functions of the Secretary of Labor relating to the administration of the United States Employment Service are hereby transferred to, and shall be exercised by, the Federal Security Administrator. [The United States Employment Service and all functions, duties and powers of the Social Security Board in the Federal Security Agency relating to employment service were transferred to War Manpower Commission by Ex. Ord. No. 9247.]

§ 204. OFFICE OF EDUCATION

(a) The Office of Education and its functions shall be administered by the Commissioner of Education under the direction and supervision of the Federal Security Administrator.

(b) All functions of the Secretary of the Interior relating to the administration of the Office of Education are hereby transferred to, and shall be exercised by, the Federal Security Administrator.

§ 205. PUBLIC HEALTH SERVICE

(a) The Public Health Service and its functions shall be administered by the Surgeon General of the Public Health Service under the direction and supervision of the Federal Security Administrator.

(b) All the functions of the Secretary of the Treasury relating to the administration of the Public Health Service, except those functions relating to the acceptance and investment of gifts as authorized by sections 23(b) and 137(e), [1] Title 42, United States Code [now covered by sections 219 and 283 of Title 42], are hereby transferred to, and shall be exercised by, the Federal Security Administrator.

§ 206. NATIONAL YOUTH ADMINISTRATION

The National Youth Administration and its functions shall be administered by the National Youth Administrator under the direction and supervision of the Federal Security Administrator. [National Youth Administration was extended until June 30, 1940, by Emergency Relief Appropriation Act of 1939, § 2(d) and until June 30, 1941, by Labor-Federal Security Appropriation Act, 1941, title II], [Functions and powers of National Youth Administration were transferred to War Manpower Commission by Ex. Ord. No. 9247.]

[Liquidation of the National Youth Administration was provided for by acts July 12, 1943, ch. 221, title VII, 57 Stat. 518; June 28, 1944, ch. 302, title II, 58 Stat. 564, and disposal of its property was covered by acts July 12, 1943, ch. 229, title I, 57 Stat. 540; Dec. 23, 1943, ch. 380, title I, 57 Stat. 615.]

§ 207. CIVILIAN CONSERVATION CORPS

The Civilian Conservation Corps and its functions shall be administered by the Director of the Civilian Conservation Corps under the direction and supervision of the Federal Security Administrator.

§ 208. TRANSFER OF RECORDS AND PROPERTY

All records and property (including office equipment) of the several agencies which, with their functions, are consolidated by section 201 into the Federal Security Agency are hereby transferred to the jurisdiction and control of the Federal Security Agency for use in the administration of the agencies and functions consolidated by that section.

§ 209. TRANSFER OF FUNDS

So much of the unexpended balances of appropriations, allocations, or other funds (including those available for the fiscal year ending June 30, 1940) available for the use of any agency in the exercise of any functions transferred by this part, or for the use of the head of any department or agency in the exercise of any functions so transferred, as the Director of the Bureau of the Budget shall determine, shall be transferred for use in connection with the exercise of the functions transferred by this part. In determining the amount to be transferred the Director of the Bureau of the Budget may include an amount to provide for the liquidation of obligations incurred against such appropriations, allocations, or other funds prior to the transfer: *Provided*, That the use of the unexpended balances of appropriations, allocations, or other funds transferred by this section shall be subject to the provisions of section 4(d)(3) and section 9 of the Reorganization Plan of 1939.

---

[1] So in original. Probably should be "sections 23b and 137e".

§ 210. Administrative Funds

The Director of the Bureau of the Budget shall allocate to the Federal Security Agency, from appropriations, allocations, or other funds available (including those available for the fiscal year ending June 30, 1940) for the administrative expenses of the agencies and functions consolidated by this part, such sums, and in such proportions, as he may find necessary for the administrative expenses of the Federal Security Agency.

§ 211. Personnel

Any personnel transferred by this part found to be in excess of the personnel necessary for the efficient administration of the functions transferred by this part shall be retransferred under existing law to other positions in the Government service, or separated from the service subject to the provisions of section 10(a) of the Reorganization Act of 1939.

PART 3. FEDERAL WORKS AGENCY

§ 301. Federal Works Agency

(a) The Bureau of Public Roads in the Department of Agriculture and its functions and personnel (including the Chief thereof) are transferred from the Department of Agriculture; the Public Buildings Branch of the Procurement Division in the Treasury Department and its functions and personnel are transferred from the Treasury Department; the Branch of Buildings Management of the National Park Service in the Department of the Interior and its functions and personnel (except those relating to monuments and memorials), and the functions of the National Park Service in the District of Columbia in connection with the general assignment of space, the selection of sites for public buildings, and the determination of the priority in which the construction or enlargement of public buildings shall be undertaken, and the personnel engaged exclusively in the administration of such functions, and the United States Housing Authority in the Department of the Interior and its functions and personnel (including the Administrator) are transferred from the Department of the Interior; and all of these agencies and functions, together with the Federal Emergency Administration of Public Works and its functions, and all of the Works Progress Administration and its functions (except the National Youth Administration and its functions) are hereby consolidated into one agency to be known as the Federal Works Agency, with a Federal Works Administrator at the head thereof. The Federal Works Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive a salary at the rate of $12,000 per annum. He shall have general direction and supervision over the administration of the several agencies consolidated into the Federal Works Agency by this section and shall be responsible for the coordination of their functions. [Functions, powers and duties of Federal Works Administrator relating to defense housing transferred to National Housing Agency during World War II see Ex. Ord. No. 9070.] [Transfer of housing functions to Housing and Home Finance Administrator, see 1947 Reorg. Plan No. 3.]

(b) The Federal Works Administrator shall appoint an Assistant Federal Works Administrator, who shall receive a salary at the rate of $9,000 per annum, and he may also appoint such other personnel and make such expenditures as may be necessary.

(c) The Assistant Administrator shall act as Administrator during the absence or disability of the Administrator, or in the event of a vacancy in that office, and shall perform such other duties as the Administrator shall direct.

(d) The several agencies and functions consolidated by this section in the Federal Works Agency shall carry with them their personnel.

§ 302. Public Roads Administration

(a) The Bureau of Public Roads and its functions shall be administered as the Public Roads Administration at the head of which shall be the Chief of the Bureau of Public Roads whose title shall be changed to Commissioner of Public Roads. Hereafter the Commissioner of Public Roads shall be appointed by the Federal Works Administrator.

(b) All functions of the Secretary of Agriculture relating to the administration of the Bureau of Public Roads are hereby transferred to, and shall be exercised by, the Federal Works Administrator.

§ 303. Public Buildings Administration

(a) The Public Buildings Branch of the Procurement Division and its functions the Branch of Buildings Management of the National Park Service and its functions (except those relating to monuments and memorials) and the functions of the National Park Service in the District of Columbia in connection with the general assignment of space, the selection of sites for public buildings, and the determination of the priority in which the construction or enlargement of public buildings shall be undertaken, are hereby consolidated and shall be administered as the Public Buildings Administration, with a Commissioner of Public Buildings at the head thereof. The Commissioner of Public Buildings shall be appointed by the Federal Works Administrator and shall receive a salary at the rate of $9,000 per annum. The Commissioner of Public Buildings shall act under the direction and supervision of the Federal Works Administrator.

(b) All functions of the Secretary of the Treasury and the Director of Procurement relating to the Administration of the Public Buildings Branch of the Procurement Division and to the selection of location and sites for public buildings, and all functions of the Secretary of the Interior and the Director of the National Park Service relating to the administration of the functions of the Branch of Buildings Management and the functions of the National Park Service in the District of Columbia in connection with the general assignment of space, the selection of sites for public buildings, and the determination of the priority in which the construction or enlargement of public buildings shall be undertaken, are hereby transferred to, and shall be exercised by, the Federal Works Administrator.

§ 304. United States Housing Authority

(a) The United States Housing Authority and its functions shall be administered by the United States Housing Administrator under the direction and supervision of the Federal Works Administrator.

(b) All functions of the Secretary of the Interior relating to the administration of the United States Housing Authority are hereby transferred to, and shall be exercised by, the Federal Works Administrator. [United States Housing Authority consolidated with other agencies into National Housing Authority during World War II, see Ex. Ord. No. 9070.] [Change of name of United States Housing Authority to Public Housing Administration and transfer to Housing and Home Finance Agency, see 1947 Reorg. Plan No. 3.]

§ 305. Public Works Administration

The Federal Emergency Administration of Public Works and its functions shall be administered as the Public Works Administration with a Commissioner of Public Works at the head thereof. The Commissioner of Public Works shall be appointed by the Federal Works Administrator and shall receive a salary at the rate of $10,000 per annum. The Commissioner of Public Works shall act under the direction and supervision of the Federal Works Administrator.

[Appropriations for liquidation of the Public Works Administration were authorized by the Second Deficiency Appropriation Act of 1944, act June 28, 1944, ch. 304, title I, 58 Stat. 602, and First Deficiency Appropriation Act, 1945, act Apr. 25, 1945, ch. 95, title I, § 1, 59 Stat. 80.]

§ 306. Work Projects Administration

The Works Progress Administration and its functions (except the National Youth Administration and its functions) shall be administered as the Work Projects Administration, with a Commissioner of Work Projects at the head thereof. The Commissioner shall be appointed by the Federal Works Administrator and shall receive a salary at the rate of $10,000 per annum. The Commissioner shall act under the direction and supervision of the Federal Works Administrator. (Functions were authorized to be carried out until June 30, 1941, and provisions concerning appointment of Commissioner were contained in Emergency Relief Appropriation Act of 1939, § 1(f and g) and Emergency Relief Appropriation Act of 1941, § 1(i and j), set out in note under chapter 16 of Title 15, Commerce and trade.) [Functions were authorized to be carried out until June 30, 1941, and provisions concerning appointment of Commissioner were contained in Emergency Relief Appropriation Act of 1939, § 1(f and g) and Emergency Relief Appropriation Act of 1941, § 1(i and j).] [Functions, records, property, personnel and administration of the Sample Surveys Section of Work Projects Administration transferred to Bureau of Census, Dept. of Commerce, see Ex. Ord. No. 9232.]

[Liquidation of the Works Projects Administration was ordered by President's letter of December 4, 1942, and appropriations for the liquidation were authorized by act July 12, 1943, ch. 229, title I, 57 Stat. 540.]

§ 307. Transfer of Records and Property

All records and property (including office equipment) of the several agencies which, with their functions, are consolidated by section 301 into the Federal Works Agency are hereby transferred to the jurisdiction and control of the Federal Works Agency for use in the administration of the agencies and functions consolidated by that section.

§ 308. Transfer of Funds

(a) So much of the unexpended balances of appropriations, allocations, or other funds available (including those available for the fiscal year ending June 30, 1940) for the use of any agency (except the United States Housing Authority) in the exercise of any functions transferred by this part, or for the use of the head of any department or agency in the exercise of any functions so transferred, and so much of such balances available to the United States Housing Authority for administrative expenses, as the Director of the Bureau of the Budget shall determine, shall be transferred for use in connection with the exercise of the functions transferred by this Part. In determining the amount to be transferred the Director of the Bureau of the Budget may include an amount to provide for the liquidation of obligations incurred against such appropriations, allocations, or other funds prior to the transfer: *Provided*, That the use of the unexpended balances of appropriations, allocations, or other funds transferred by this section shall be subject to the provisions of section 4(d)(3) and section 9 of the Reorganization Act of 1939.

(b) All unexpended balances of appropriations, allocations, or other funds available (including those available for the fiscal year ending June 30, 1940) for the use of the United States Housing Authority, other than those transferred by subsection (a) of this section, are hereby transferred with the United States Housing Authority and shall remain available to it for the exercise of its functions.

§ 309. Administrative Funds

The Director of the Bureau of the Budget shall allocate to the Federal Works Agency, from appropriations, allocations, or other funds available (including those available for the fiscal year ending June 30, 1940) for the administrative expenses of the agencies and functions consolidated by section 301, such sums, and in such proportions, as he may find necessary for the administrative expenses of the Federal Works Agency.

§ 310. Personnel

Any of the personnel transferred by this part found to be in excess of the personnel necessary for the efficient administration of the functions transferred by this part shall be retransferred under existing law to other positions in the Government service, or separated from the service subject to the provisions of section 10(a) of the Reorganization Act of 1939.

PART 4. LENDING AGENCIES

§ 401. (a) Transfers to the Department of Agriculture

The Farm Credit Administration, the Federal Farm Mortgage Corporation, and the Commodity Credit Corporation, and their functions and activities, together with their respective personnel, records, and property (including office equipment), are hereby transferred to the Department of Agriculture and shall be administered in such Department under the general direction and supervision of the Secretary of Agriculture, who shall be responsible for the coordination of their functions and activities.

(b) Transfer of Administrative Funds

So much of the unexpended balances of appropriations, allocations, or other funds available (including those available for the fiscal year ending June 30, 1940) for the administrative expenses of any agency transferred by this section, as the Director of the Bureau of the Budget shall determine, shall be transferred to the Secretary of Agriculture for such use; and the Director of the Bureau of the Budget shall allocate to the Secretary of Agriculture from such funds, such sums, and in such proportions, as he may find necessary for the administrative expenses of the Secretary of Agriculture in connection with the agencies and functions transferred by this section. In determining the amount to be transferred, the Director of the Bureau of the Budget may include an amount to provide for the liquidation of obligations incurred against such appropriations, allocations, or other funds prior to the transfer. The use of the unexpended balances of appropriations, allocations, or other funds transferred by this subsection shall be subject to the provision of section 4(d)(3) and section 9 of the Reorganization Act of 1939.

(c) Transfer of Other Funds

All unexpended balances of appropriations, allocations, or other funds, other than those mentioned in subsection (b) of this section, available (including those available for the fiscal year ending June 30, 1940) for any agency transferred by subsection (a) of this section shall be transferred with such agency and shall remain available to it for the exercise of its functions. [Electric Home and Farm Authority was terminated as a federal agency by Ex. Ord. No. 9256, Oct. 13, 1942.]

(d) Personnel

Any of the personnel transferred by this section to the Department of Agriculture which the Secretary of Agriculture shall find to be in excess of the personnel necessary for the administration of the functions transferred by this section shall be retransferred under existing law to other positions in the Government, or separated from the service subject to the provisions of section 10(a) of the Reorganization Act of 1939.

§ 402. (a) Federal Loan Agency

There shall be at the seat of the Government a Federal Loan Agency, with a Federal Loan Administrator at the head thereof. The Federal Loan Administrator shall be appointed by the President by and with the advice and consent of the Senate, and shall receive a salary at the rate of $12,000 per annum.

(B) ASSISTANT FEDERAL LOAN ADMINISTRATOR

The Federal Loan Administrator shall appoint an Assistant Federal Loan Administrator, who shall receive a salary at the rate of $9,000 per annum. The Assistant Administrator shall act as Administrator during the absence or disability of the Administrator, or in the event of a vacancy in that office, and shall perform such other duties as the Administrator shall direct.

(C) POWERS AND DUTIES OF ADMINISTRATOR

The Administrator shall supervise the administration, and shall be responsible for the coordination of the functions and activities, of the following agencies: Reconstruction Finance Corporation, Electric Home and Farm Authority, R.F.C. Mortgage Company, Disaster Loan Corporation, Federal National Mortgage Association, Federal Home Loan Bank Board, Home Owners' Loan Corporation, Federal Savings and Loan Insurance Corporation, Federal Housing Administration, and Export-Import Bank of Washington. The Administrator may appoint such officers and employees and make such expenditures as may be necessary.

[Functions, powers and duties of Federal Loan Administrator relating to defense housing consolidated with other agencies into the National Housing Agency, during World War II, see Ex. Ord. No. 9070. By Ex. Ord. No. 9071 the functions, powers and duties of the Federal Loan Agency and Federal Loan Administrator relating to certain agencies and which functions were not consolidated by said Ex. Ord. No. 9070 establishing the National Housing Agency, were transferred to the Department of Commerce.] [Federal Home Loan Bank Board, Home Owners' Loan Corporation and Federal Housing Administration consolidated with other agencies into the National Housing Agency during World War II, see Ex. Ord. No. 9070.] [Housing agencies transferred to Housing and Home Finance Agency, see 1947 Reorg. Plan No. 3.]

(D) ADMINISTRATIVE FUNDS

The Director of the Bureau of the Budget shall allocate to the Federal Loan Agency, from appropriations, allocations, or other funds available (including those available for the fiscal year ending June 30, 1940) for the administrative expenses of the agencies named in this section, such sums, and in such proportion, as he may find necessary for the administrative expenses of the Federal Loan Agency.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

Pursuant to the provisions of the Reorganization Act of 1939 (Public, No. 19, 76th Cong., 1st sess.), approved April 3, 1939, I herewith transmit Reorganization Plan No. I, which, after investigation, I have prepared in accordance with the provisions of section 4 of the act; and I declare that with respect to each transfer, consolidation, or abolition made in Reorganization Plan No. I, I have found that such transfer, consolidation, or abolition is necessary to accomplish one or more of the purposes of section 1(a) of the act.

In these days of ruthless attempts to destroy democratic government, it is boldly asserted that democracies must always be weak in order to be democratic at all; and that, therefore, it will be easy to crush all free states out of existence.

Confident in our Republic's 150 years of successful resistance to all subversive attempts upon it, whether from without or within, nevertheless we must be constantly alert to the importance of keeping the tools of American democracy up to date. It is our responsibility to make sure that the people's government is in condition to carry out the people's will, promptly, effectively, without waste or lost motion.

In 1883 under President Arthur we strengthened the machinery of democracy by the Civil Service law; beginning in 1905 President Roosevelt initiated important inquiries into Federal administration; in 1911 President Taft named the Economy and Efficiency Commission which made very important recommendations; in 1921 under Presidents Wilson and Harding we tightened up our budgetary procedure. Presidents Theodore Roosevelt, Taft, Wilson, Harding, Coolidge, and Hoover in succession strongly recommended the rearrangement of Federal administrative activities. In 1937 I proposed, on the basis of an inquiry authorized and appropriated for by the Congress, the strengthening of the administrative management of the executive establishment.

None of all this long series of suggestions, running over more than a quarter of a century, was in any sense personal or partisan in design.

These measures have all had only one supreme purpose—to make democracy work—to strengthen the arms of democracy in peace or war and to ensure the solid blessings of free government to our people in increasing measure.

We are not free if our administration is weak. But we are free if we know, and others know, that we are strong; that we can be tough as well as tender hearted; and that what the American people decide to do can and will be done, capably and effectively, with the best national equipment that modern organizing ability can supply in a country where management and organization is so well understood in private affairs.

My whole purpose in submitting this plan is to improve the administrative management of the Republic, and I feel confident that our Nation is united in this central purpose, regardless of differences upon details.

This plan is concerned with the practical necessity of reducing the number of agencies which report directly to the President and also of giving the President assistance in dealing with the entire executive branch by modern means of administrative management.

Forty years ago in 1899 President McKinley could deal with the whole machinery of the executive branch through his 8 cabinet secretaries and the heads of 2 commissions; and there was but 1 commission of the so-called quasi-judicial type in existence. He could keep in touch with all the work through 8 or 10 persons.

Now, 40 years later, not only do some 30 major agencies (to say nothing of the minor ones) report directly to the President, but there are several quasi-judicial bodies which have enough administrative work to require them also to see him on important executive matters.

It has become physically impossible for one man to see so many persons, to receive reports directly from them, and to attempt to advise them on their own problems which they submit. In addition the President today has the task of trying to keep their programs in step with each other or in line with the national policy laid down by the Congress. And he must seek to prevent unnecessary duplication of effort.

The administrative assistants provided for the President in the Reorganization Act cannot perform these functions of over-all management and direction. Their task will be to help me get information, and condense and summarize it—they are not to become in any sense Assistant Presidents nor are they to have any authority over anybody in any department or agency.

The only way in which the President can be relieved of the physically impossible task of directly dealing with 30 or 40 major agencies is by reorganization—by the regrouping of agencies according to their major purposes under responsible heads who will report to the President, just as is contemplated by the Reorganization Act of 1939.

This act says that the President shall investigate the organization of all agencies of the Government and determine what changes are necessary to accomplish any one or more of five definite purposes:

(1) To reduce expenditures;

(2) To increase efficiency;

(3) To consolidate agencies according to major purposes;

(4) To reduce the number of agencies by consolidating those having similar functions and by abolishing such as may not be necessary;

(5) To eliminate overlapping and duplication of effort.

It being obviously impracticable to complete this task at one time, but having due regard to the declaration of Congress that it should be accomplished immediately and speedily, I have decided to undertake it promptly in several steps.

The first step is to improve over-all management, that is, to do those things which will accomplish the purposes set out in the law, and which, at the same time, will reduce the difficulties of the President in dealing with the multifarious agencies of the executive branch and assist him in distributing his responsibilities as the chief administrator of the Government by providing him with the necessary organization and machinery for better administrative management.

The second step is to improve the allocation of departmental activities, that is, to do those things which will accomplish the purposes set out in the law and at the same time help that part of the work of the executive branch which is carried on through executive departments and agencies. In all this the responsibility to the people is through the President.

The third step is to improve intradepartmental management, that is, to do those things which will enable the heads of departments and agencies the better to carry out their own duties and distribute their own work among their several assistants and subordinates.

Each of these three steps may require from time to time the submission of one or more plans involving one or more reorganizations, but it is my purpose to fulfill the duty imposed upon me by the Congress as expeditiously as practicable and to the fullest extent possible in view of the exceptions and exemptions set out in the act.

The plan I now transmit is divided into four parts or sections which I shall describe briefly as follows:

PART 1. EXECUTIVE OFFICE OF THE PRESIDENT

In my message to the Congress of January 12, 1937, in discussing the problem of how to improve the administrative management of the executive branch, I transmitted with my approval certain recommendations for strengthening and developing the management arms of the President. Those three management arms deal with (1) budget, and efficiency research, (2) planning, and (3) personnel. My accumulated experience during the 2 years since that time has deepened my conviction that it is necessary for the President to have direct access to these managerial agencies in order that he may have the machinery to enable him to carry out his constitutional responsibility, and in order that he may be able to control expenditures, to increase efficiency, to eliminate overlapping and duplication of effort, and to be able to get the information which will permit him the better to advise the Congress concerning the state of the Union and the program of the Government.

Therefore, I find it necessary and desirable in carrying out the purposes of the act to transfer the Bureau of the Budget to the Executive Office of the President from the Treasury Department. It is apparent from the legislative history of the Budget and Accounting Act that it was the purpose in 1921 to set up an Executive Budget for which the President would be primarily responsible to the Congress and to the people, and that the Director of the Budget was to act under the immediate direction and supervision of the President. While no serious difficulties have been encountered because of the fact that the Bureau of the Budget was placed in the Treasury Department so far as making budgetary estimates has been concerned, it is apparent that its coordinating activities and its research and investigational activities recently provided for by the Congress, will be facilitated if the Bureau is not a part of 1 of the 10 executive departments. Also, in order that the Bureau of the Budget may the better carry out its work of coordination and investigation, I find it desirable and necessary in order to accomplish the purposes of the act to transfer to the Bureau of the Budget the functions of the Central Statistical Board.

By these transfers to the Executive Office, the President will be given immediate access to that managerial agency which is concerned with the preparation and administration of the Budget, with the coordination of the work of the governmental agencies, and with research and investigation necessary to accomplish the five definite purposes of the Reorganization Act of 1939.

I also find it necessary and desirable to transfer to the Executive Office of the President the National Resources Committee, now an independent establishment, and to consolidate with it by transfer from the Department of Commerce the functions of the Federal Employment Stabilization Office, the consolidated unit to be known as the National Resources Planning Board. This Board would be made up as is the present Advisory Board of the National Resources Committee of citizens giving part-time services to the Government, who aided by their technical staff would be able to advise the President, the Congress, and the people with respect to plans and programs for the conservation of the national resources, physical and human. By these transfers to the Executive Office, the President will be given more direct access to and immediate direction over that agency which is concerned with planning for the utilization and conservation of the national resources, an indispensable part of the equipment of the Chief Executive.

On previous occasions I have recommended and I hereby renew and emphasize my recommendation that the work of this Board be placed upon a permanent statutory basis.

Because of an exemption in the act, it is impossible to transfer to the Executive Office the administration of the third managerial function of the Government, that of personnel. However, I desire to inform the Congress that it is my purpose to name one of the administrative assistants to the President, authorized in the Reorganization Act of 1939, to serve as a liaison agent of the White House on personnel management.

In this manner, the President will be given for the first time direct access to the three principal necessary management agencies of the Government. None of the three belongs in any existing department. With their assistance, and with this reorganization, it will be possible for the President to continue the task of making investigations of the organization of the Government in order to control expenditures, increase efficiency, and eliminate overlapping.

PART 2. FEDERAL SECURITY AGENCY

Studies heretofore made by me and researches made at my direction, as well as recommendations submitted by me to the Congress, and especially those contained in my message of January 12, 1937, indicate clearly that to carry out the purposes of the Reorganization Act of 1939 to group, coordinate, and consolidate agencies of the Government according to major purposes and to reduce the number of agencies by consolidating those having similar functions under a single head, would require the provision of 3 general agencies in addition to the 10 executive departments.

It is my objective, then, by transfer, consolidation, and abolition to set up a Federal Security Agency, a Federal Works Agency, and a Federal Loan Agency, and then to distribute among the 10 executive departments and these 3 new agencies, the major independent establishments in the Government (excepting those exempt from the operations of the act) in order to minimize overlapping and duplication, to increase efficiency and to reduce expenditures to the fullest extent consistent with the efficient operation of the Government.

I find it necessary and desirable to group in a Federal Security Agency those agencies of the Government, the major purposes of which are to promote social and economic security, educational opportunity, and the health of the citizens of the Nation.

The agencies to be grouped are the Social Security Board, now an independent establishment, the United States Employment Service, now in the Department of Labor, the Office of Education, now in the Department of the Interior, the Public Health Service, now in the Treasury Department, the National Youth Administration, now in the Works Progress Administration, and the Civilian Conservation Corps, now an independent agency.

The Social Security Board is placed under the Federal Security Agency, and at the same time the United States Employment Service is transferred from the Department of Labor and consolidated with the unemployment compensation functions of the Social Security Board in order that their similar and related functions of social and economic security may be placed under a single head and their internal operations simplified and integrated.

The unemployment compensation functions of the Social Security Board and the employment service of the Department of Labor are concerned with the same problem, that of the employment, or the unemployment, of the individual worker.

Therefore, they deal necessarily with the same individual. These particular services to the particular individual also are bound up with the public-assistance activities of the Social Security Board. Not only will these similar functions be more efficiently and economically administered at the Federal level by such grouping and consolidation, but this transfer and merger also will be to the advantage of the administration of State social security programs and result in considerable saving of money in the administrative costs of the governments of the 48 States as well as those of the United States. In addition to this saving of money there will be a considerable saving of time and energy not only on the part of administrative officials concerned with this program in both Federal and State Governments, but also on the part of employers and workers, permitting through the simplification of procedures a reduction in the number of reports required and the elimination of unnecessary duplication in contacts with workers and with employers.

Because of the relationship of the educational opportunities of the country to the security of its individual citizens, the Office of Education with all of its functions, including, of course, its administration of Federal-State programs of vocational education, is transferred from the Department of the Interior to the Federal Security Agency. This transfer does not increase or extend the activities of the Federal Government in respect to education, but does move the existing activities into a grouping where the work may be carried on more efficiently and expeditiously, and where coordination and the elimination of overlapping may be better accomplished. The Office of Education has no relationship to the other functions of the Department of the Interior.

The Public Health Service is transferred from the Treasury Department to the Federal Security Agency. It is obvious that the health activities of the Federal Government may be better carried out when so grouped than if they are left in the Treasury, which is primarily a fiscal agency, and where the necessary relationships with other social security, employment, and educational activities now must be carried on by an elaborate scheme of interdepartmental committee work.

The National Youth Administration is transferred from the Works Progress Administration to the Federal Security Agency since its major purpose is to extend the educational opportunities of the youth of the country and to bring them through the processes of training into the possession of skills which enable them to find employment. Other divisions of the Federal Security Agency will have the task of finding jobs, providing for unemployment compensation, and other phases of social security, while still other units of the new agency will be concerned with the problem of primary and secondary education, as well as vocational education and job training and retraining for employment. While much of the work of the National Youth Administration has been carried on through work projects, these have been merely the process through which its major purpose was accomplished, and, therefore, this agency under the terms of the act should be grouped with the other security agencies rather than with the work agencies.

For similar reasons the Civilian Conservation Corps, now an independent establishment, is placed under the Federal Security Agency because of the fact that its major purpose is to promote the welfare and further the training of the individuals who make up the corps, important as may be the construction work which they have carried on so successfully. The Civilian Conservation Corps is a small coordinating agency which supervises work carried on with the cooperation of several regular departments and independent units of the Government. This transfer would not interfere with the plan of work heretofore carried on but it would enable the Civilian Conservation Corps to coordinate its policies, as well as its operations, with those other agencies of the Government concerned with the educational and health activities and with human security.

PART 3. FEDERAL WORKS AGENCY

In order to carry out the purpose of the Reorganization Act of 1939 I find it necessary and desirable to group and consolidate under a Federal Works Agency those agencies of the Federal Government dealing with public works not incidental to the normal work of other departments, and which administer Federal grants or loans to State and local governments or other agencies for the purposes of construction.

The agencies so to be grouped are: The Bureau of Public Roads, now in the Department of Agriculture; the Public Buildings Branch of the Procurement Division, now in the Treasury Department; and the Branch of Building Management of the National Park Service (so far as it is concerned with public buildings which it operates for other departments or agencies) now in the Department of the Interior; the United States Housing Authority, now in the Department of the Interior; the Federal Emergency Administration of Public Works (familiarly known as P. W. A.); and the Works Progress Administration (familiarly known as W. P. A.) except the functions of the National Youth Administration.

The transfer of both the Public Works Administration and the Works Progress Administration to the new Federal Works Agency would provide for both principal types of public works that have been carried on by the Federal Government directly or in cooperation with the State and local governments. I find that it will be possible to reduce administrative costs as well as to improve efficiency and to eliminate overlapping by bringing these different programs of public works under a common head. But, because of the differences that justified their separate operation in the past and differences that will continue in the future to distinguish certain phases of major public works from work relief, I find it necessary to maintain them at least for the present as separate subordinate units of the Federal Works Agency.

The present Federal Emergency Administration of Public Works is placed under the Federal Works Agency under the shorter name of Public Works Administration.

The name of the Works Progress Administration has been changed to Works Projects Administration in order to make its title more descriptive of its major purpose.

The Bureau of Public Roads is transferred from the Department of Agriculture to the Federal Works Agency and as a separate unit under the name of Public Roads Administration. This will bring the administration of the Federal roads program with its grants-in-aid to the States into coordination with other major public-works programs and other programs of grants and loans to the States.

The construction and operation of many public buildings is now carried on in two agencies which are consolidated under the new Federal Works Agency, namely the Public Buildings Branch of the Procurement Division of the Treasury Department (which is concerned with the construction of Federal buildings and with the operation of many public buildings outside the District of Columbia) and the Branch of Building Management of the National Park Service, of the Department of the Interior, which is concerned with the operation of public buildings in the District of Columbia. These two separate activities are consolidated in one unit to be known as the Public Buildings Administration. Improved efficiency, coordination of effort, and savings will result from this transfer and consolidation.

Then, also, there is transferred from the Department of the Interior to the Federal Works Agency the United States Housing Authority. The major purpose of the United States Housing Authority is to administer grants-in-aid and loans to local public housing authorities in accordance with its established standards of construction in that part of the housing field which cannot be reached economically by private enterprise. For these reasons, it should be grouped with those other agencies which have to do with public works, with grants and loans to State and local governments and with construction practices and standards.

PART 4. FEDERAL LOAN AGENCY AND TRANSFERS OF INDEPENDENT LENDING AGENCIES

In order to carry out the purposes of the Reorganization Act of 1939 I find it necessary and desirable to group under a Federal Loan Agency those independent lending agencies of the Government which have been established from time to time for the purpose of stimulating and stabilizing the financial, commercial, and industrial enterprises of the Nation.

The agencies to be grouped in the Federal Loan Agency are: The Reconstruction Finance Corporation, the Electric Home and Farm Authority, the Federal Home Loan Bank Board, the Federal Housing Administration, and their associated agencies and boards, as well as the Export-Import Bank of Washington.

Since 1916 the Congress has established from time to time agencies for providing loans, directly or indirectly, for the stimulation and stabilization of agriculture, and such agencies should in my opinion be grouped with the other agricultural activities of the Government. For that reason I find it necessary and desirable to accomplish the purposes of the act to transfer the Farm Credit Administration, the Federal Farm Mortgage Corporation, and the Commodity Credit Corporation and associated agencies to the Department of Agriculture.

ECONOMY AND EFFICIENCY

One of the five purposes of the Reorganization Act of 1939 is "to reduce expenditures to the fullest extent consistent with the efficient operation of the Government." This purpose is important in each phase of the plan here presented. The Reorganization Act prohibits abolishing functions—in other words basic services or activities performed. Therefore the reduction in expenditures to be effected must necessarily be brought about chiefly in the overhead administrative expenses of the agencies set up to perform certain functions. The chance for economy arises therefore not from stopping work, but from organizing the work and the overhead more efficiently in combination with other similar activities. Only the Congress can abolish or curtail functions now provided by law.

The overhead administrative costs of all the agencies affected in Reorganization Plan No. I is about $235,000,000. This does not include the loans they make, the benefits they pay, the wages of the unemployed who have been given jobs; it does not include the loans and grants to States or, in short, the functional expense. It does include the overhead expense of operating and administering all these agencies.

The reduction of administrative expenditures which it is probable will be brought about by the taking effect of the reorganizations specified in the plan is estimated as nearly as may be at between $15,000,000 and $20,000,000 annually, a substantial lowering of the existing overhead. Certain of these economies can be brought about almost immediately, others will require a painstaking and gradual readjustment in the machinery and business practices of the Government.

Any such estimate is incomplete, however, without reference to the corresponding savings which will follow in the States and cities through the recommended consolidation of the Federal services with which they cooperate, and the improved efficiency and convenience which will be felt by citizens all over the Nation—many of whom will be able to find in a single office many of the services now scattered in several places. These economies will undoubtedly exceed the direct savings in the Federal Budget.

It will not be necessary to ask the Congress for any additional appropriations for the administrative expenses of the three consolidated agencies set up in this plan, since their costs will be met from funds now available for the administrative expenses of their component units. Actually new expenses will be only a fractional part of the expected savings.

Neither on this Reorganization Plan No. I nor on future reorganization plans, covering interdepartmental changes and intradepartmental changes, will every person agree on each and every detail. It is true that out of the many groupings and regroupings proposed in this message a few of the individual agencies could conceivably be placed elsewhere.

Nevertheless, I have been seeking to consider the functional origin and purpose of each agency as required by the reorganization bill itself.

If in the future experience shows that one or two of them should be regrouped, it will be wholly possible for the President and the Congress to make the change.

The plan presented herewith represents 2 years of study. It is a simple and easily understood plan. It conforms to methods of executive administration used by large private enterprises which are engaged in many lines of production. Finally, it will save a sum of money large in comparison with the existing overhead of the agencies involved.

I trust, therefore, that the Congress will view the plan as a whole and make it possible to take the first step in improving the executive administration of the Government of the United States.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, April 25, 1939.

REORGANIZATION PLAN NO. II OF 1939

Eff. July 1, 1939, 4 F.R. 2731, 53 Stat. 1431 by act June 7, 1939, ch. 193, 53 Stat. 813

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1939, pursuant to the provisions of the Reorganization Act of 1939, approved April 3, 1939.

PART 1. DEPARTMENTS

§ 1. STATE DEPARTMENT

Transfers and consolidations relating to the Department of State are hereby effected as follows:

(a)-(c). [Repealed. August 13, 1946, ch. 957, title XI, § 1131(65), 60 Stat. 1040.]

(D) CHINA TRADE ACT REGISTRAR

Such officer of the Foreign Service as the Secretary of State shall make available for that purpose may be authorized by the Secretary of Commerce to perform the duties of China Trade Act Registrar provided for in the act of September 19, 1922, (42 Stat. 849) [section 143 of Title 15, Commerce and Trade], under the direction of the Secretary of Commerce.

(e) [Repealed. Pub. L. 88-94, § 2(f), Aug. 12, 1963, 77 Stat. 122. Subsection transferred the Foreign Service Buildings Commission and its functions to the Department of State. See section 295(d) of Title 22, Foreign Relations and Intercourse.]

§ 2. Treasury Department

Transfers, consolidations, and abolitions relating to the Department of the Treasury are hereby effected as follows:

(a) Bureau of Lighthouses

The Bureau of Lighthouses in the Department of Commerce and its functions are hereby transferred to and shall be consolidated with and administered as a part of the Coast Guard in the Department of the Treasury.

(b) Director General of Railroads: Office Abolished and Functions Transferred

The office of Director General of Railroads is hereby abolished. The functions and duties of the Director General of Railroads are hereby transferred to the Secretary of the Treasury to be exercised and performed by him personally or through such officer or officers of the Department of the Treasury as he may authorize. The Secretary of the Treasury is hereby designated as the agent provided for in section 206 of the Transportation Act, 1920 (41 Stat. 461) [former section 74(a-g) of Title 49, Transportation].

(c) War Finance Corporation Abolished

All of the functions, property, and obligations of the War Finance Corporation not heretofore transferred by statute to the Secretary of the Treasury are hereby transferred to the Department of the Treasury. The War Finance Corporation is hereby abolished and the Secretary of the Treasury shall complete the winding up of its affairs and shall dispose of its assets in accordance with the act of March 1, 1929 (45 Stat. 1442) [former section 374 of Title 15, Commerce and Trade], not later than December 31, 1939.

§ 3. Department of Justice

Transfers, consolidations, and abolitions relating to the Department of Justice are hereby effected as follows:

(a) Federal Prison Industries, Inc.

The Federal Prison Industries, Inc. (together with its Board of Directors), and its functions are hereby transferred to the Department of Justice and shall be administered under the general direction and supervision of the Attorney General.

(b) National Training School for Boys

The National Training School for Boys and its functions (including the functions of its Board of Trustees) are hereby transferred to the Department of Justice and shall be administered by the Director of the Bureau of Prisons, under the direction and supervision of the Attorney General.

(c) Board of Trustees of the National Training School for Boys Abolished

The Board of Trustees of the National Training School for Boys (including the consulting trustees) is hereby abolished.

§ 4. Department of the Interior

Transfers, consolidations, and abolitions relating to the Department of the Interior are hereby effected as follows:

(a) Functions of the National Bituminous Coal Commission Transferred

The functions of the National Bituminous Coal Commission (including the functions of the members of the Commission) are hereby transferred to the Secretary of the Interior to be administered under his direction and supervision by such division, bureau, or office in the Department of the Interior as the Secretary shall determine.

(b) National Bituminous Coal Commission Abolished

The National Bituminous Coal Commission and the offices of the members thereof are hereby abolished and the outstanding affairs of the Commission shall be wound up by the Secretary of the Interior.

(c) Office of Consumers' Counsel Abolished and Functions Transferred

The office of Consumers' Counsel of the National Bituminous Coal Commission is hereby abolished and its functions are transferred to, and shall be administered in, the office of the Solicitor of the Department of the Interior under the direction and supervision of the Secretary of the Interior.

[Functions, records, property, and personnel of Consumer's Counsel of the National Bituminous Coal Commission, which were transferred by this Plan to office of Solicitor of Department of Interior, were retransferred to newly created Bituminous Coal Consumer Counsel by former section 852 of Title 15, Commerce and Trade.]

(d) Bureau of Insular Affairs

The Bureau of Insular Affairs of the War Department and its functions are hereby transferred to the Department of the Interior and shall be consolidated with the Division of Territories and Island Possessions in the Department of the Interior and administered in such Division under the direction and supervision of the Secretary of the Interior. The office of the Chief of the Bureau and offices subordinate thereto provided for in section 14 of the act of June 4, 1920 (41 Stat. 769) [former sections 2 and 3 of Title 48, Territories and Insular Possessions], are hereby abolished and all of the functions of such offices are transferred to, and shall be exercised by, the Director of the Division of Territories and Island Possessions.

(e) Bureau of Fisheries

The Bureau of Fisheries in the Department of Commerce and its functions are hereby transferred to the Department of the Interior and shall be administered in that Department under the direction and supervision of the Secretary of the Interior. The functions of the Secretary of Commerce relating to the protection of fur seals and other fur-bearing animals, to the supervision of the Pribilof Islands and the care of the natives thereof, and to the Whaling Treaty Act [former sections 901-915 of Title 16, Conservation], are hereby transferred to, and shall be exercised by, the Secretary of the Interior.

(f) Bureau of Biological Survey

The Bureau of Biological Survey in the Department of Agriculture and its functions are hereby transferred to the Department of the Interior and shall be administered in that Department under the direction and supervision of the Secretary of the Interior. The functions of the Secretary of Agriculture relating to the conservation of wildlife, game, and migratory birds are hereby transferred to, and shall be exercised by, the Secretary of the Interior. The provisions of the act of May 18, 1934, (ch. 299, 48 Stat. 780), as amended by the act of February 8, 1936 (ch. 40, 49 Stat. 1105 [former sections 253 and 254 of Title 18, Crimes and Criminal Procedure], insofar as they relate to officers or employees of the Department of Agriculture designated by the Secretary of Agriculture to enforce any act of Congress for the protection, preservation, or restoration of game and other wildlife and animals shall apply to officers and employees of the Department of the Interior designated by the Secretary of the Interior to exercise and discharge such duties.

(G) OFFICERS OF BIOLOGICAL SURVEY MAY ADMINISTER OATHS

The provisions of the act of January 31, 1925 (ch. 124, 43 Stat. 803), [former sections 17, 521, 522 of this title], shall be applicable to such officers, agents, or employees of the Department of the Interior performing functions of the Bureau of Biological Survey as are designated by the Secretary of the Interior for the purposes named in the act.

(H) MIGRATORY BIRD CONSERVATION COMMISSION

The Secretary of the Interior shall be chairman of the Migratory Bird Conservation Commission, and the Secretary of Agriculture shall be a member thereof.

(I) MOUNT RUSHMORE NATIONAL MEMORIAL COMMISSION

The Mount Rushmore National Memorial Commission and its functions are hereby transferred to the National Park Service in the Department of the Interior. The functions vested in the Commission by sections 3 and 4(a) of the act of June 15, 1938 (ch. 402, 52 Stat. 694) shall continue to be exercised by the Commission. All other functions of the Mount Rushmore National Memorial Commission shall be administered by the National Park Service under the direction and supervision of the Secretary of the Interior.

§ 5. DEPARTMENT OF AGRICULTURE: RURAL ELECTRIFICATION ADMINISTRATION TRANSFERRED

The Rural Electrification Administration and its functions and activities are hereby transferred to the Department of Agriculture and shall be administered in that Department by the Administrator of the Rural Electrification Administration under the general direction and supervision of the Secretary of Agriculture.

§ 6. DEPARTMENT OF COMMERCE: TRANSFER OF INLAND WATERWAYS CORPORATION

The Inland Waterways Corporation and all of its functions and obligations are hereby transferred to the Department of Commerce and shall be administered in that Department under the supervision and direction of the Secretary of Commerce. The capital stock of the Corporation shall continue to be held for the United States by the Secretary of the Treasury, but all other functions, rights, privileges, and powers and all duties and liabilities of the Secretary of War relating to the Inland Waterways Corporation are hereby transferred to, and shall be exercised, performed, and discharged by, the Secretary of Commerce. The Secretary of Commerce shall be substituted for the Secretary of War, as and shall be deemed to be, the incorporator of the Inland Waterways Corporation.

PART 2. INDEPENDENT AGENCIES

§ 201. FEDERAL SECURITY AGENCY

Transfers and consolidations relating to the Federal Security Agency are hereby effected as follows:

(A) RADIO SERVICE AND UNITED STATES FILM SERVICE TRANSFERRED

The functions of the Radio Division and the United States Film Service of the National Emergency Council are hereby transferred to the Federal Security Agency and shall be administered in the Office of Education under the direction and supervision of the Federal Security Administrator. [Functions of Radio Division were authorized to be carried out until June 30, 1940, by Emergency Relief Appropriation Act of 1939, § 8.]

(B) AMERICAN PRINTING HOUSE FOR THE BLIND

The functions of the Secretary of the Treasury with respect to the administration of the appropriations for the American Printing House for the Blind (except the function relating to the perpetual trust fund) are hereby transferred to the Federal Security Agency and shall be administered under the direction and supervision of the Federal Security Administrator. The annual report and vouchers required to be furnished to the Secretary of the Treasury by the trustees of the American Printing House for the Blind shall be furnished to the Federal Security Administrator.

§ 202. NATIONAL ARCHIVES

Transfers, consolidations, and abolitions relating to the National Archives are hereby effected as follows:

(A) FUNCTIONS OF CODIFICATION BOARD TRANSFERRED

The functions of the Codification Board, established by the Act of June 19, 1937 (50 Stat. 304) [section 1510 of Title 44, Public Printing and Documents], are hereby transferred to the National Archives and shall be consolidated in that agency with the functions of the Division of the Federal Register and shall be administered by such Division under the direction and supervision of the Archivist.

(B) CODIFICATION BOARD ABOLISHED

The Codification Board is hereby abolished and its outstanding affairs shall be wound up by the Archivist through the Division of the Federal Register in the National Archives.

PART 3. EXECUTIVE OFFICE OF THE PRESIDENT

§ 301. Transfers and abolitions relating to the Executive Office of the President are hereby effected as follows:

(A) FUNCTIONS OF NATIONAL EMERGENCY COUNCIL TRANSFERRED

All functions of the National Emergency Council other than those relating to Radio Service and Film Service (transferred by Section 201(a) of this plan to the Federal Security Agency) are hereby transferred to the Executive Office of the President and shall be administered under the direction and supervision of the President. [Functions of National Emergency Council transferred to Executive Office of President were authorized to be carried out until June 30, 1940, by Emergency Relief Appropriation Act of 1939, § 8.]

(B) NATIONAL EMERGENCY COUNCIL ABOLISHED

The National Emergency Council is hereby abolished and its outstanding affairs shall be wound up under the direction and supervision of the President.

PART 4. GENERAL PROVISIONS

§ 401. TRANSFER OF FUNCTIONS OF HEADS OF DEPARTMENTS

Except as otherwise provided in this plan, the functions of the head of any Department relating to the administration of any agency or function transferred from his Department by this plan, are hereby transferred to, and shall be exercised by, the head of the department or agency to which such transferred agency or function is transferred by this plan.

§ 402. TRANSFER OF RECORDS, PROPERTY, AND PERSONNEL

All records and property (including office equipment) of the several agencies, and all records and property used primarily in the administration of any functions, transferred by this plan and, except as otherwise provided, all the personnel used in the administration of such agencies and functions (including officers whose chief duties relate to such administration) are hereby transferred to the respective departments or agencies concerned, for use in the administration of the agencies and functions transferred by this plan: *Provided*, That any personnel transferred to any department or agency by this section found by the head of such department or agency to be in excess of the personnel necessary for the administration of the functions transferred to his department or agency shall be retransferred under existing law to other positions in the Government service, or separated from the service subject to the provisions of section 10(a) of the Reorganization Plan of 1939.

§ 403. TRANSFER OF FUNDS

So much of the unexpended balances of appropriations, allocations, or other funds available for the use of any agency in the exercise of any function transferred by this plan, or for the use of the head of any department or agency in the exercise of any function so transferred, as the Director of the Bureau of the Budget with the approval of the President shall determine, shall be transferred to the department or agency concerned for use in connection with the exercise of the function so transferred. In determining the amount to be transferred the Director of the Bureau of the Budget may include an amount to provide for the liquidation of obligations incurred against such appropriations, allocations, or other funds prior to the transfer: *Provided*, That the use of the unexpended balances of appropriations, allocations, or other funds transferred by this section shall be subject to the provisions of section 4(d)(3) and section 9 of the Reorganization Act of 1939.

§ 404. TRANSFER OF FUNCTIONS RELATING TO PERSONNEL

Except as prohibited by the Reorganization Act of 1939, all functions relating to the appointment, fixing of compensation, transfer, promotion, demotion, suspension, or dismissal of persons to or from offices and positions in any department vested by law in any officer of such department other than the head thereof are hereby transferred to the head of such department and shall be administered under his direction and supervision by such division, bureau, office, or persons as he shall determine.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

Pursuant to the provisions of the Reorganization Act of 1939 (Public, No. 19, 76th Cong., 1st Sess.) approved April 3, 1939, I herewith transmit Reorganization Plan No. II, which, after investigation, I have prepared in accordance with the provisions of section 4 of the act; and I declare that with respect to each transfer, consolidation, or abolition made in Reorganization Plan No. II, I have found that such transfer, consolidation, or abolition is necessary to accomplish one or more of the purposes of section 1 (a) of the act.

In my message to the Congress on April 25, 1939, transmitting Reorganization Plan No. I, I took occasion to say that, it being obviously impracticable to complete the task of reorganization at one time, I had decided, in view of the declaration of the Congress that it should be accomplished immediately and speedily, to undertake it in several steps.

Plan No. I, had to do with overall management. Plan No. II, transmitted herewith, is designed to improve the work of the executive branch for which, although carried on through executive departments and agencies, the responsibility to the people is through the President. It is concerned with the sole purpose of improving the administrative management of the executive branch by a more logical grouping of existing units and functions and by a further reduction in the number of independent agencies.

I am transmitting Reorganization Plan No. II as the result of studies that have been made for me and of my own experience over a period of several years, as the best way in which to regroup the agencies affected so as to fulfill the purposes of the act:

1. To reduce expenditures;
2. To increase efficiency;
3. To consolidate agencies according to major purposes;
4. To reduce the number of agencies by consolidating those having similar functions and by abolishing such as may not be necessary; and
5. To eliminate overlapping and duplication of effort.

The plan I now transmit I shall describe briefly as follows:

I proposed to transfer the Foreign Commerce Service of the United States and its functions now in the Bureau of Foreign and Domestic Commerce of the Department of Commerce and the Foreign Agricultural Service of the United States and its functions in the Department of Agriculture to the Department of State, and to consolidate them with the Foreign Service of the United States under the direction and supervision of the Secretary of State.

By this transfer and consolidation, there will be a single Foreign Service in the Department of State, but this does not mean that the interests of the commercial and agricultural communities are to be neglected, for it is a part of the Plan that representatives of the Secretary of Agriculture and the Secretary of Commerce shall be placed on the Board of Foreign Service Personnel and that specific investigations relating to commerce and agriculture shall be initiated directly by the Secretaries of these two Departments who will receive directly the results of investigations in their own fields.

A much greater degree of coordination and effectiveness in our foreign establishments can be achieved under the plan than has ever before been possible. The needs of the different Departments and Agencies of the Government will be met more efficiently and the responsiveness of the foreign establishments to these needs will be greatly improved.

The plan presupposes that it may be necessary from time to time for various Departments and Agencies of the Government to send abroad specialists and technicians for relatively temporary duty. While these will not be in the Foreign Service, strictly speaking, they will be given a suitable commission by the Department of State, on a temporary basis, so that they may have the same obligations as other officers of the Foreign Service while on duty abroad.

The plan also presupposes a special training period within the Department of Commerce and the Department of Agriculture for Foreign Service officers selected to specialize in commercial or agricultural work and contemplates the fullest utilization of the experience gained abroad by Foreign Service officers in the work of the Departments of Commerce and Agriculture in this country. There will be stationed in the Department of State a liaison officer of the Department of Commerce and of the Department of Agriculture to make effective the proposed cooperation.

The plan specifically leaves undisturbed the relationships of the Department of Commerce and of the Department of Agriculture with the commercial and agricultural communities. What it does do is to consolidate the foreign services into one Foreign Service in the Department of State, where it ought to be, with the resulting advantages of economy, efficiency, better functional grouping, elimination of overlapping and duplication of effort, and greater service to our commercial and agricultural interests.

There is also transferred to the Department of State the Foreign Service Buildings Commission and its functions. This Commission is advisory to the administrative work of the Department of State and should no longer have the status of an independent establishment.

The Bureau of Lighthouses now in the Department of Commerce is transferred to the Treasury Department and consolidated with the Coast Guard in that Department. The advantages of this consolidation are obvious and fall clearly within the provision of the act requiring me to consolidate agencies according to major purposes. This will save money on equipment and administration and will permit the better use of personnel.

The plan also includes the abolition of the Office of the Director General of Railroads and of the War Finance Corporation and the transfer of their functions to the Secretary of the Treasury to be wound up by him as rapidly as may be. In the case of the War Finance Corporation, it is directed that the final dissolution shall be accomplished not later than December 31, 1939.

I further propose to transfer to the Department of Justice the Federal Prison Industries, Inc., and the National Training School for Boys, and at the same time to abolish the board of trustees of the National Training School for Boys. Responsibility for the Federal penal and correctional institutions is in the Department of Justice and these two independent establishments should be consolidated therein. None of the other Federal penal or correctional institutions has a board of trustees and there is no need of further continuing the board of the National Training School.

The plan also provides for the abolition of the Codification Board established for the purpose of codifying existing administrative law and the transfer of its functions to the Division of the Federal Register in the National Archives. The work of this board has now progressed to the point where a separate board is no longer necessary and the future work of keeping the codification up to date can more efficiently and economically be carried on by the editorial staff of the Federal Register.

I find it necessary and desirable in order to accomplish the purposes of the Reorganization Act to abolish the National Bituminous Coal Commission and to transfer its functions to the Secretary of the Interior. Thus the task of conserving the bituminous-coal resources of the country may be carried on directly by the head of the Department principally responsible for the conservation of fuel and other mineral supplies. The Congress placed this Commission in the Department of the Interior, but experience has shown that direct administration will be cheaper, better, and more effective than through the cumbersome medium of an unnecessary commission.

The transfer to the Department of the Interior of the Bureau of Insular Affairs in the War Department and its consolidation with the Division of Territories and Island Possessions in Interior is a functional transfer of obvious desirability. Under the provisions of existing law, however, I shall direct, where necessary, that certain correspondence from the Governor General of the Philippines shall be transmitted to the President through the Department of State.

The plan provides for the transfer to the Department of the Interior of the Bureau of Fisheries from the Department of Commerce and of the Bureau of Biological Survey from the Department of Agriculture. These two Bureaus have to do with conservation and utilization of the wildlife resources of the country, terrestrial and aquatic. Therefore, they should be grouped under the same departmental administration, and in that Department which, more than any other, is directly responsible for the administration and conservation of the public domain. However, I intend to direct that the facilities of the Department of Agriculture shall continue to be used for research studies which have to do with the protection of domestic animals from diseases of wildlife; and also where most economical for the protection to farmers and stockmen against predatory animals.

The plan also provides for the transfer of the Mount Rushmore National Memorial Commission to the National Park Service in the Department of the Interior in order that this great memorial may be administered as a part of the similar work of the Park Service.

Included in the plan is a provision to transfer to the Department of Agriculture the Rural Electrification Administration, now operated as an independent establishment. The work of this administration in its educational as well as its lending functions is clearly a part of the rural life activities of the country and should, therefore, be administered in coordination with the other agricultural activities of the Government.

The Inland Waterways Corporation is transferred to the Department of Commerce from the War Department. This corporation, which operates inland waterways transportation facilities, should be coordinated with the administration of other aids to commerce and industry.

I propose to transfer to the Federal Security Agency, for administration in the Office of Education, the film and radio functions of the National Emergency Council. These are clearly a part of the educational activities of the Government and should be consolidated with similar activities already carried on in the Office of Education. Similarly, Government participation in the work of the American Printing House for the Blind, except fiscal functions relating to trust funds, is transferred from the Secretary of the Treasury to the Federal Security Agency, in order that this work may be coordinated with the other work for the blind now being carried on in the Social Security Board.

The plan provides for the abolition of the National Emergency Council and the transfer to the Executive Office of the President of all its functions with the exception of the film and radio activities which go to the Office of Education. Subject to appropriations by the Congress, these activities transferred to the White House would be administered in the manner best designed to give the President the information he requires from all parts of the country.

The National Emergency Council was established by Executive order in 1933 and is composed of the President, the Vice President, the Members of the Cabinet, and the heads of some 23 independent establishments. Its usefulness as an actual council, which met weekly under my chairmanship, was very great in the period of the emergency which then confronted the country, but, as time has gone on, it no longer operates as a council but does continue to carry on important activities which are indispensable to the President of the United States, as well as to other branches of the Government, and the public. It maintains an information service and a press intelligence service, it publishes the United States Government Manual, and it carries on through State and central staffs an important work of coordinating and reporting.

The information service makes available general information concerning all phases of governmental activity and is provided for all who submit questions or inquiries by mail, by telephone, or by personal call. In one sense it may be called a post-office address—"Uncle Sam, Post Office Box No. 1, Washington, D.C."—to which persons who want information about the Government but do not know the exact division or agency of the Government to which to apply, may write with confidence that their questions will be answered or else sent on to the proper agency for direct reply.

The press intelligence service carried on in the Council is not a service for giving intelligence to the press, but rather for making available to responsible persons in the Government, both in the executive and in the legislative branches, a clipping service, which shows what the press of the country has printed. The partial consolidation of clipping services in this unit—a consolidation which should go further—already has resulted in economy and convenience. A clipping service of this kind, on a smaller scale, was maintained for many years in the White House but it was not then available to other branches of the Government. Its return to the White House with the additional feature of availability to all the rest of the Government will promote efficiency without violating tradition.

The publication of the United States Government Manual makes available to every citizen a simplified textbook of information as to the organization and availability of the Federal agencies. Published in loose-leaf form, it is sold by the Superintendent of Documents of the Government Printing Office.

The coordinating and reporting functions of the Council have to do with the presentation to the President of factual information, independently gathered, as to the progress and effect of our governmental activities. Through its State offices the Council has been able to facilitate the various Federal programs particularly with respect to State and local governments.

The plan also includes certain general provisions in order to accomplish fully the purposes of the act. In addition to the transfer of bureaus and other units, it is necessary also to transfer certain functions of heads of departments; to transfer records, property, and personnel; to transfer funds; and to provide that the power of appointment occasionally, and sometimes apparently quite accidentally, vested in a subordinate official of a department, shall be vested in the head of the department. It is impossible to exercise the proper direction and supervision over subordinate units unless the definite power of appointment, fixing of compensation, transfer, and promotion or dismissal of personnel is vested in the principal responsible head. In no other way can the purpose of consolidating similar functions under a single head as required by the act be accomplished in practice.

It is one of the five purposes of the Reorganization Act "to reduce expenditures to the fullest extent consistent with the efficient operation of the Government." This is an important purpose in each phase of the plan here presented. The Reorganization Act prohibits abolishing functions—in other words, basic services or activities performed. Therefore, the reduction in expenditures must necessarily be brought about chiefly in the overhead administrative expenses of the agencies affected. In a great many cases the economies to be effected by Reorganization Plan No. II will be the result of improved efficiency which will, as the plan works out, require fewer persons to perform the work or will require the employment of less temporary assistance.

In the case of the consolidation of the foreign services it is estimated that the administration by a single administrative unit in the Department of State will achieve a saving of $20,000 a year and that consolidation of the three field forces will make it possible to drop alien employees and, by a more effective use of personnel, to save an additional $100,000 a year when the readjustments have been made.

The total administrative expense of all of the agencies affected by this plan is about $25,000,000 per annum.

The reduction of such expenditures, which it is probable will be brought about by the taking effect of the reorganizations specified in the plan, is estimated at $1,250,000 per annum. Certain of these economies can be brought about at once. Others will require a gradual readjustment in machinery and business practices of the agencies affected.

May I repeat what I said in my message transmitting Reorganization Plan No. I, that in this as in future reorganization plans not every person will agree on each and every detail. Out of the many groupings and regroupings proposed, a few of the individual agencies conceivably could be placed elsewhere, but I have been seeking to consider the functional purpose of each agency as required by the Reorganization Act itself and have made this plan with the sole purpose of improving the service rendered by the Government to its citizens in accordance with the purposes set out in the act.

In view of the fact that it is now May 9, and that any reorganization plan must lie before the Congress for 60 calendar days, and because the reorganization of an intradepartmental character requires a great deal of research and careful painstaking detailed work, I do not propose to send any further general reorganization plans to the Congress at this session.

However, there are certain transfers, abolitions, and consolidations of committees, commissions, and boards which I propose to do by means of Executive and military orders under existing law as complementary to Reorganization Plan No. II when it becomes effective. Then, also, by mere administrative procedure, some small agencies which have been listed in various publications as independent establishments but whose independence has no basis in law or in formal Executive or military orders, may be reassigned to an appropriate placement by administrative procedure on the part of their respective heads.

Not all of the interdepartmental transfers and consolidations that are necessary and desirable have been accomplished in this Reorganization Plan No. II. I am directing the Bureau of the Budget to study these problems in order that they may be included in plans to be transmitted to the Congress at its next session.

For example, in order to save money and to do the work more efficiently there are some units which should be divided so that a part of the work may be done by one agency and a part by another. Take, for example, the business of mapping. It is obviously important that the work of making surveys and accumulating data for maps should be done in the various agencies which are concerned primarily with the purpose for which the map is being drawn. On the other hand, the business of manufacturing maps might very well be consolidated in order to save money, and to manufacture better maps.

I have considered the desirability of transferring the jurisdiction over deportable aliens from the Immigration and Naturalization Service in the Department of Labor to the Department of Justice, but I find that this matter will require further study, or perhaps legislation, and therefore it is not included in this plan.

I have also considered the problem of certain public lands insofar as they present overlapping jurisdiction between the Departments of the Interior and Agriculture.

Insofar as crops, including tree crops, are involved there is something to be said for their retention in the Department of Agriculture. But where lands are to be kept for the primary purpose of recreation and permanent public use and conservation they fall more logically into the Department of the Interior.

I hope to offer a reorganization plan on this early in the next session.

There are other types of work carried on in the Federal Government where it may prove necessary and desirable to divide the functions now being carried on by a particular unit so as the better to serve the basic purpose for which the work was undertaken. Such problems I shall continue to study with the view of sending other reorganization plans involving both interdepartmental and intradepartmental reorganizations to the Congress at its next session.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, May 22, 1940.

EX. ORD. NO. 8357. ADMINISTRATION OF THE FOREIGN SERVICE

Ex. Ord. No. 8357 Mar. 2, 1940, 5 F.R. 950, provided:

Under the authority vested in me by section 1(b) of Part I of Reorganization Plan No. II (effective July 1, 1939, by Public Resolution approved June 7, 1939, 53 Stat. 1431), and in effectuation of the provisions of subdivisions (2), (3), and (4) of that section, I hereby prescribe the following regulations pertaining to officers designated by the Secretary of Commerce and the Secretary of Agriculture under the said subdivisions:

1. Officers designated by the Secretary of Commerce and the Secretary of Agriculture under subdivisions (2) and (3), respectively, of the said section 1(b) of Part I of Reorganization Plan No. II may, when acceptable to the Secretary of State, be sent abroad as specialists or technicians for temporary service under the provisions of, and subject to the conditions named in, section 5 of the act of March 3, 1927, 44 Stat. 1396 [former section 197d of Title 15], and section 2 of the act of June 5, 1930, 46 Stat. 498 [former section 542 of Title 7], as authorized by the said subdivisions (2) and (3), respectively.

2. The Secretary of State shall give suitable commissions to the officers described in paragraph 1 hereof

and shall assign them to such offices as may be deemed necessary by him and the Secretary of the department concerned. Such officers, during the active period of their assignment, shall be considered a part of the organization of the Foreign Service, shall assume the status directed by the Secretary of State, and shall, in this respect, be subject to the jurisdiction of the Secretary of State. With the approval of the chief of the office to which they are attached, such officers may request reports from Foreign Service officers upon matters falling within the jurisdiction of their respective departments. The duties of such officers shall be restricted to the accomplishment of the special missions within the scope of their assignments.

3. The officers designated by the Secretary of Commerce and the Secretary of Agriculture under subdivision (4) of the said section 1(b) of Part I of Reorganization Plan No. II to serve in the Department of State as liaison officers shall, when acceptable to the Secretary of State, serve in matters of interest to their respective departments.

REORGANIZATION PLAN NO. III OF 1940

Eff. June 30, 1940, 5 F.R. 2107, 54 Stat. 1231 by act June 4, 1940, ch. 231, § 4, 54 Stat. 231

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 2, 1940, pursuant to the provisions of the Reorganization Act of 1939, approved April 3, 1939.

DEPARTMENT OF THE TREASURY

§ 1. FISCAL SERVICE OF THE TREASURY DEPARTMENT.—(A) ESTABLISHMENT OF FISCAL SERVICE

(1) The office of the Commissioner of Accounts and Deposits, the Division of Bookkeeping and Warrants, the Division of Disbursement, the Division of Deposits, the Section of Surety Bonds, the office of the Commissioner of the Public Debt, the Division of Loans and Currency, the office of the Register of the Treasury, the Division of Public Debt Accounts and Audit, the Division of Savings Bonds, the Division of Paper Custody, and the Office of the Treasurer of the United States and their functions are consolidated into one agency of the Treasury Department to be known as the Fiscal Service, at the head of which there shall be an officer who shall be known as the Fiscal Assistant Secretary.

(2) The Fiscal Service shall consist of the Office of the Fiscal Assistant Secretary, the Office of the Treasurer of the United States, a Bureau of Accounts, and a Bureau of the Public Debt. Except as is otherwise specifically provided herein, the Secretary of the Treasury may establish such divisions and other constituent units within these agencies as he deems necessary.

(3) The Division of Bookkeeping and Warrants and its functions are transferred to the Bureau of Accounts, at the head of which shall be the Commissioner of Accounts and Deposits, who shall hereafter be known as the Commissioner of Accounts.

(4) The office of the Commissioner of the Public Debt, the Division of Loans and Currency, the office of the Register of the Treasury, the Division of Public Debt Accounts and Audit, the Division of Savings Bonds, and the Division of Paper Custody and their functions are consolidated into and shall be administered as the Bureau of the Public Debt, at the head of which shall be the Commissioner of the Public Debt.

(5) The functions of the Office of the Treasurer of the United States shall be administered by the Treasurer of the United States.

(6) Such functions as are consolidated into or transferred to the Fiscal Service and which are not allocated herein to particular agencies or offices of the Fiscal Service shall be administered through such units of the Service as may be designated by the Fiscal Assistant Secretary with the approval of the Secretary of the Treasury.

(7) The Fiscal Assistant Secretary shall be appointed by the Secretary of the Treasury in accordance with the civil-service laws and shall receive a salary at the rate of $15,000 per annum. He shall, under the direction of the Secretary of the Treasury, supervise the administration of and coordinate the functions and activities consolidated into or transferred to the Fiscal Service and shall perform such other duties as the Secretary of the Treasury shall direct. In the absence or disability of the Fiscal Assistant Secretary or in the event of a vacancy in that office, the Secretary of the Treasury may designate any other officer of the Treasury Department to act as Fiscal Assistant Secretary. (As amended Oct. 15, 1949, ch. 695, § 5 (a), 63 Stat. 880.)

(B) TRANSFER OF CERTAIN FUNCTIONS TO FISCAL SERVICE

All functions vested in the Under Secretary of the Treasury and any Assistant Secretary of the Treasury pertaining to (1) the administration of financing operations; (2) the supervision of the administration of the functions and activities of the Office of Commissioner of Accounts and Deposits, the Office of the Commissioner of the Public Debt, and the Office of the Treasurer of the United States; and (3) supervision of the administration of the accounting functions and activities in the Treasury Department and all its bureaus, divisions, and offices, are hereby transferred to and consolidated in the Fiscal Service, to be exercised by the Fiscal Assistant Secretary under the direction of the Secretary of the Treasury: *Provided*, That the functions included in item (3) shall be exercised through the Commissioner of Accounts.

(C) TRANSFER OF FUNCTIONS RELATING TO ACCOUNTING

All functions vested in any other officer or employee of the Treasury Department, except those excluded by section 133b of this title, of authorizing the installation, maintenance, revision, and elimination of accounting records, reports, and procedures, are hereby transferred to and consolidated under the Fiscal Assistant Secretary, to be exercised by him through the Commissioner of Accounts.

(D) ABOLITION OF AN OFFICE OF ASSISTANT SECRETARY OF THE TREASURY

That office of Assistant Secretary of the Treasury which is now vacant is hereby abolished; and all the functions, rights, powers, and duties of such abolished office are hereby transferred to and vested in the Fiscal Assistant Secretary, to be exercised by him under the direction of the Secretary of the Treasury.

§ 2. FEDERAL ALCOHOL ADMINISTRATION

The Federal Alcohol Administration, the offices of the members thereof, and the office of the Administrator are abolished, and their functions shall be administered under the direction and supervision of the Secretary of the Treasury through the Bureau of Internal Revenue in the Department of the Treasury.

DEPARTMENT OF THE INTERIOR

§ 3. FISH AND WILDLIFE SERVICE

The Bureau of Fisheries and the Bureau of Biological Survey in the Department of the Interior with their respective functions are consolidated into one agency in the Department of the Interior to be known as the Fish and Wildlife Service. The functions of the consolidated agency shall be administered under the direction and supervision of the Secretary of the Interior by a Director and not more than two Assistant Directors, who shall be appointed by the Secretary and perform such duties as he shall prescribe. The offices of Commissioner and Deputy Commissioner of Fisheries and the offices of Chief and Associate Chief of the Bureau of Biological Survey are abolished and their functions transferred to the consolidated agency.

§ 4. Recorder of General Land Office

The office of Recorder of the General Land Office is abolished. The functions of the Recorder shall be exercised under the direction and supervision of the Secretary of the Interior through such officers or employees of the General Land Office as he may designate.

DEPARTMENT OF AGRICULTURE

§ 5. Surplus Marketing Administration

The Division of Marketing and Marketing Agreements of the Agricultural Adjustment Administration of the Department of Agriculture and its functions and the Federal Surplus Commodities Corporation as an agency of the Department of Agriculture and its functions are consolidated into an agency in the Department of Agriculture to be known as the Surplus Marketing Administration. The Surplus Marketing Administration shall be headed by an Administrator, who shall be appointed by and be subject to the direction and supervision of the Secretary of Agriculture. [Surplus Marketing Administration, including Federal Surplus Commodities Corporation as an agency of Department of Agriculture, consolidated with other agencies into Agricultural Marketing Administration, for duration of World War II, see Ex. Ord. No. 9069.]

DEPARTMENT OF LABOR

§ 6. Offices in the Immigration and Naturalization Service Abolished

The offices of commissioner of immigration of the several ports and the offices of district commissioner of immigration and naturalization in the Department of Labor are abolished, and their functions shall be administered under the supervision of the Secretary of Labor by the Commissioner of Immigration and Naturalization through such district directors of immigration and naturalization as the Commissioner shall designate.

CIVIL AERONAUTICS AUTHORITY

§ 7. Functions of the Administrator Transferred

[Repealed. Pub. L. 85-726, title XIV, § 1401(c), Aug. 23, 1958, 72 Stat. 806.]

GENERAL PROVISIONS

§ 8. Transfer of Records, Property, and Personnel

All records and property (including office equipment) of the several agencies, and all records and property used primarily in the administration of any functions, transferred or consolidated by this Plan and all the personnel used in the administration of such agencies and functions (including officers whose chief duties relate to such administration and whose offices are not abolished) are transferred or consolidated, as the case may be, within the department or agency concerned, for use in the administration of the agencies and functions transferred or consolidated by this Plan: *Provided*, That any personnel transferred or consolidated within any department or agency by this section found by the head of such department or agency to be in excess of the personnel necessary for the administration of the functions transferred or consolidated shall be retransferred under existing law to other positions in the Government service, or separated from the service subject to the provisions of section 10(a) of the Reorganization Act of 1939.

§ 9. Transfer of Funds

So much of the unexpended balances of appropriations, allocations, or other funds available (including funds available for the fiscal year ending June 30, 1941) for the use of any agency in the exercise of any function transferred or consolidated by this Plan, or for the use of the head of any department or agency in the exercise of any function so transferred or consolidated, as the Director of the Bureau of the Budget with the approval of the President shall determine, shall be transferred within the department or agency concerned for use in connection with the exercise of the function so transferred or consolidated. In determining the amount to be transferred the Director of the Bureau of the Budget may include an amount to provide for the liquidation of obligations incurred against such appropriations, allocations, or other funds prior to the transfer: *Provided*, That the use of the unexpended balances of appropriations, allocations, or other funds transferred by this section shall be subject to the provisions of sections 4 (d) (3) and section 9 of the Reorganization Act of 1939.

Message of the President

To the Congress of the United States:

When I submitted Reorganization Plans I and II at the last regular session of Congress, I indicated that certain reorganizations of an intradepartmental character were necessary but that detailed study would be required for the preparation of specific plans. Since that time the heads of the executive departments and my own office have continued to study the internal organization of the several agencies of the Government. I have considered recommendations made to me as a result of these studies and have found it possible to make a number of needed improvements of organization by administrative action. In other instances, I can effect the necessary changes only under the procedure set up in the Reorganization Act of 1939.

I am transmitting herewith Reorganization Plan III, which I have prepared in accordance with the provisions of section 4 of the Reorganization Act of 1939 (Public, No. 19, 76th Cong., 1st sess.) approved April 3, 1939; and I declare that with respect to each reorganization made in this plan, I have found that such reorganization is necessary to accomplish one or more of the purposes of section 1(a) of the act:

1. To reduce expenditures;
2. To increase efficiency;
3. To consolidate agencies according to major purposes;
4. To reduce the number of agencies by consolidating those having similar functions and by abolishing such as may not be necessary; and
5. To eliminate overlapping and duplication of effort.

TREASURY DEPARTMENT

I am proposing two intradepartmental reorganizations relating to the Treasury Department.

The first reorganization consolidates in a Fiscal Service, under the direction of a permanent Fiscal Assistant Secretary, those functions of the Treasury Department pertaining to financing and fiscal activities. This Fiscal Service will bring together the Office of the Treasurer of the United States, the Office of Commissioner of Accounts and Deposits, and the Public Debt Service, including their various subdivisions and certain other related functions.

Some adjustments are made in the assignment of functions of the units which will comprise the Fiscal Service, and certain changes are made in titles. The net effect of these adjustments is to establish within the Fiscal Service the Office of Fiscal Assistant Secretary, the Office of the Treasurer of the United States, and a Bureau of Accounts under a Commissioner of Accounts, and a Bureau of Public Debt under the Commissioner of Public Debt. In addition to responsibility for the administration of these four segments of the Department's operations, the Fiscal Assistant Secretary is vested with the financing functions of the Under Secretary of the Treasury and of the Assistant Secretaries.

The functions brought together in the Fiscal Service are all closely interrelated and are essential parts of the general functions of financing and fiscal control. The internal organization of the Fiscal Service conforms to accepted principles of financial management and provides the framework for adequate internal controls. At the same time, under the proposed plan these functions can be coordinated more effectively, duplications eliminated, and a more efficient service provided. To assure continued effective management of this highly important and technical phase of the Treasury functions, I am placing the Fiscal Service under the supervision of a career official. The plan, therefore, provides that the Fiscal Assistant Secretary will be appointed by the Secretary of the Treasury in accordance with civil-service laws and will perform his duties under the general direction of the Secretary. This is in accord with the policy of this administration of bringing higher administrative positions within the career service. The creation of the office of Fiscal Assistant Secretary will not increase the number of Assistant Secretaries in the Treasury Department since the plan expressly provides for the abolition of one of the three existing offices of Assistant Secretary.

The second reorganization affecting the Treasury Department vests in the Secretary of the Treasury full authority for the administration of the Federal Alcohol Administration Act. At present the Federal Alcohol Administration occupies an anomalous position. It is legally a part of the Treasury Department, but actually it is clothed with almost complete independence under existing statutory provisions. Under certain conditions the Administration would by law become an independent agency, whereas the interests of improved management require its integration with allied activities in the Treasury Department.

I propose, therefore, that the functions of the Federal Alcohol Administration be correlated with the activities of the Bureau of Internal Revenue, particularly its Alcohol Tax Unit. The Bureau is already performing a large part of the field enforcement work of the Administration and could readily take over complete responsibility for its work. The Bureau is daily making, for other purposes, a majority of the contacts with units of the liquor industry which the Federal Alcohol Administration should but cannot make without the establishment of a large and duplicating field force. Under the provisions of this plan, it will be possible more effectively to utilize the far-flung organization of the Treasury Department, including its many laboratories, in discharging the functions of the Federal Alcohol Administration. Thus, I find the proposed consolidation will remedy deficiencies in organization structure as well as afford a more effective service at materially reduced costs.

DEPARTMENT OF THE INTERIOR

Reorganization Plan II transferred the Bureau of Fisheries of the Department of Commerce and the Bureau of Biological Survey of the Department of Agriculture to the Department of the Interior and thus concentrated in one department the two bureaus responsible for the conservation and utilization of the wildlife resources of the Nation. On the basis of experience gained since this transfer, I find it necessary and desirable to consolidate these units into a single bureau to be known as the Fish and Wildlife Service.

The Bureau of Biological Survey administers Federal laws relating to birds, land mammals, and amphibians whereas the Bureau of Fisheries deals with fishes, marine mammals, and other aquatic animals. The natural areas of operation of these two bureaus frequently coincide, and their activities are interrelated and similar in character. Consolidation will eliminate duplication of work, facilitate coordination of programs, and improve service to the public.

Another provision relating to the Department of the Interior is the abolition of the statutory office of Recorder of the General Land Office. This office is a relic of the quill-and-sand-box period in the transcription of land records. Its duties can readily be absorbed by the regular civil-service personnel of the Land Office.

DEPARTMENT OF AGRICULTURE

I propose to consolidate the Division of Marketing and Marketing Agreements of the Agricultural Adjustment Administration and the Federal Surplus Commodities Corporation into a single agency to be known as the Surplus Marketing Administration. This consolidation will facilitate the work of the Department of Agriculture relating to the formulation and administration of marketing agreements and the disposition of agricultural surpluses.

Because the two programs require unified planning and direction, the Secretary of Agriculture has found it desirable to designate the same person as the head of both. In one capacity he reports directly to the Secretary of Agriculture while in the other he is responsible by law to the Administrator of the Agricultural Adjustment Administration. Consolidation of the two units will assure unified management, eliminate confusion in administration, and make for more efficient operation. Furthermore, this reorganization will remove from the Agricultural Adjustment Administration the legal responsibility for functions which differ administratively from its major operations.

DEPARTMENT OF LABOR

I propose to abolish the offices of commissioner of immigration and the offices of district commissioner of immigration and naturalization. The former have been vacant since 1933; the latter impose an unnecessary level of supervision above that of district director of immigration and naturalization in certain of our ports and should be eliminated in the interests of economy and sound administration.

CIVIL AERONAUTICS AUTHORITY

I propose to clarify the relations of the Administrator of the Civil Aeronautics Authority and the five-member Board of the Civil Aeronautics Authority. The Administrator is made the chief administrative officer of the Authority with respect to all functions other than those relating to economic regulation and certain other activities primarily of a rule-making and adjudicative character which are entrusted to the Board. This will eliminate the confusion of responsibilities existing under the Civil Aeronautics Act and provide a more clear-cut and effective plan of organization for the agency.

IMPROVEMENT AND SAVINGS

The principal advantage of the reorganizations proposed in this plan will be increased effectiveness of operation of the agencies concerned. In addition to improved service, some economies may be expected. I estimate that immediate annual savings in administrative expense of approximately $150,000 will result. This comparatively small amount in no way measures the worth of the proposals. In fact, if they resulted in no administrative savings at all, I should still consider them worthwhile in view of the increased effectiveness of administration that will result.

NEED FOR CONTINUOUS STUDY

The management problems of a department or agency are complex and dynamic and require much detailed analysis before findings can be made. These problems cannot be resolved by any one reorganization plan, nor at one time; their study must be a continuing process if our departmental machinery is to keep pace with the changing requirements placed on the Government. Accordingly, in conformity with the Budget and Accounting Act, I have instructed the Director of the Bureau of the Budget to continue studies in collaboration with the several departments and agencies, looking to further improvements in the Government's administrative structure.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, April 2, 1940.

REORGANIZATION PLAN NO. IV OF 1940

Eff. June 30, 1940, 5 F.R. 2421, 54 Stat. 1234 by act June 4, 1940, ch. 231, § 4, 54 Stat. 231

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 11, 1940, pursuant to the provisions of the Reorganization Act of 1939, approved April 3, 1939.

DEPARTMENT OF STATE

§ 1. TRANSFER OF DOMINICAN CUSTOMS RECEIVERSHIP

The functions of the Division of Territories and Island Possessions in the Department of the Interior relating to the Dominican Customs Receivership are transferred to the Department of State and shall be administered by the Secretary of State or under his direction and supervision by such agency in the Department of State as he shall designate.

DEPARTMENT OF THE TREASURY

§ 2. APPROVAL OF COMPROMISES

The functions of the Attorney General relating to the approval of compromises made in accordance with the provisions of section 7 of the Federal Alcohol Administration Act [section 207 of Title 27] are transferred to the Secretary of the Treasury, to be exercised by him or under his direction and supervision by such officer in the Department of the Treasury as he shall designate: *Provided*, That exclusive jurisdiction to compromise cases arising under the Federal Alcohol Administration Act [sections 201-212 of Title 27] which are pending before the courts or which have been or may hereafter be referred to the Department of Justice for action shall be vested in the Attorney General, and may be exercised by him or by any officer in the Department of Justice designated by him.

DEPARTMENT OF JUSTICE

§ 3. DISBURSEMENT FUNCTIONS OF UNITED STATES MARSHALS

All functions relating to disbursement by United States marshals which would otherwise become functions of the Treasury Department on July 1, 1940, by virtue of the provisions of Executive Order No. 6166 of June 10, 1933, as amended, are transferred to and vested in the Department of Justice to be exercised by United States marshals under the supervision of the Attorney General in accordance with existing statutes pertaining to such functions: *Provided*, That the Attorney General shall furnish the Secretary of the Treasury, when requested by him, such information as the Treasury Department may require with respect to the amounts of money received and disbursed by marshals and the procedure followed in connection therewith: *Provided further*, That upon the request of the Secretary of the Treasury, and with the approval of the Attorney General, the facilities of the Department of Justice may be utilized in the disbursement, or aiding in the disbursement of public moneys of the United States available for expenditure by any agency of the Government.

POST OFFICE DEPARTMENT

§ 4. FUNCTIONS OF POSTAL DISBURSEMENTS

All functions relating to the disbursement of the postal revenues and all other funds under the jurisdiction of the Post Office Department and the Postmaster General and the Board of Trustees of the Postal Savings System which would otherwise become functions of the Treasury Department on July 1, 1940, by virtue of Executive Order No. 6166 of June 10, 1933, as amended, are transferred to and vested in (a) the Board of Trustees of the Postal Savings System as to postal savings disbursements, and (b) the Post Office Department as to all other disbursements involved, and such functions shall be exercised by postmasters and other authorized disbursing agents of the Post Office Department and of the Postal Savings System in accordance with existing statutes pertaining to such functions: *Provided*, That the Postmaster General shall furnish to the Secretary of the Treasury, when requested by him, such information as the Treasury Department may require with respect to the amounts of money received and disbursed by the Post Office Department, its postmasters and other fiscal officers, and the procedure followed in connection therewith: *Provided further*, That upon request of the Secretary of the Treasury, and with the approval of the Postmaster General, the facilities of the Post Office Department may be utilized in the disbursement, or aiding in the disbursement, of public moneys of the United States available for expenditure by any agency of the Government.

§ 5. TRANSFER OF INTERBUILDING MESSENGER FUNCTIONS

(a) Except as prohibited by section 133b(b) of this title, the function of regular interbuilding messenger service (including the transportation of mail) and the function of transportation of mail between Government agencies and the city post office, now exercised in the District of Columbia by agencies of the Government, are transferred from such agencies to and consolidated in the Post Office Department and shall be administered by the Postmaster General under such rules and regulations as the President shall prescribe: *Provided*, That this section shall not apply to the transportation of moneys and securities by armored truck or by other special services, or to messenger service between contiguous buildings.

(b) The Director of the Bureau of the Budget may waive the transfer of any motor vehicle coming within the purview of section 14 of this plan where he finds that the retention of such vehicle is essential to the performance of functions other than those transferred by this section.

DEPARTMENT OF THE INTERIOR

§ 6. CERTAIN FUNCTIONS OF THE SOIL CONSERVATION SERVICE TRANSFERRED

The functions of the Soil Conservation Service in the Department of Agriculture with respect to soil and moisture conservation operations conducted on any lands under the jurisdiction of the Department of the Interior are transferred to the Department of the Interior and shall be administered under the direction and supervision of the Secretary of the Interior through such agency or agencies in the Department of the Interior as the Secretary shall designate.

DEPARTMENT OF COMMERCE

§ 7. TRANSFER OF CIVIL AERONAUTICS AUTHORITY

[Repealed. Pub. L. 85-726, title XIV, § 1401(c), Aug. 23, 1958, 72 Stat. 806.]

§ 8. TRANSFER OF WEATHER BUREAU

The Weather Bureau in the Department of Agriculture and its functions are transferred to the Department of Commerce and shall be administered under the direction and supervision of the Secretary of Commerce: *Provided*, That the Department of Agriculture may continue to make snow surveys and to conduct research concerning: (a) relationships between weather and crops, (b) long-range weather forecasting, and (c) relationships between weather and soil erosion.

DEPARTMENT OF LABOR

§ 9. TRANSFER OF CERTAIN FUNCTIONS RELATING TO ENFORCEMENT OF WAGE PAYMENTS ON PUBLIC CONSTRUCTION

The functions of the Secretary of the Treasury and the Secretary of the Interior under section 2 of the act of June 13, 1934, entitled "An act to effectuate the purpose of certain statutes concerning rates of pay for labor, by making it unlawful to prevent anyone from receiving the compensation contracted for thereunder, and for other purposes" (48 Stat. 948) [section 276c of Title 40, Public Buildings, Property, and Works], are transferred to the Secretary of Labor and shall be administered by him or under his direction and supervision by such agency in the Department of Labor as the Secretary shall designate.

UNITED STATES MARITIME COMMISSION

§ 10. Transfer of Nautical School Functions

The functions of the Secretary of the Navy with respect to furnishing, maintaining, and repairing vessels for the use of State marine or nautical schools and with respect to administering grants of funds for the support of such schools are transferred to and shall be administered by the United States Maritime Commission. Jurisdiction over vessels, apparel, charts, books, and instruments now loaned to State marine or nautical schools is transferred from the Secretary of the Navy to the United States Maritime Commission. [Functions and jurisdiction of Maritime Commission outlined in this section transferred to Commandant of U.S. Coast Guard for duration of World War II, see Ex. Ord. No. 9083.]

FEDERAL SECURITY AGENCY

§ 11. Transfer of Certain Interior Department Institutions—(a) Saint Elizabeths Hospital

Saint Elizabeths Hospital in the Department of the Interior and its functions are transferred to the Federal Security Agency and shall be administered under the direction and supervision of the Federal Security Administrator. The annual report required to be submitted to the Congress by the superintendent of the Hospital shall be submitted through the Federal Security Administrator. The annual report required to be furnished to the Secretary of the Interior by the Board of Visitors shall be furnished to the Federal Security Administrator.

(b) Freedmen's Hospital

Freedmen's Hospital in the Department of the Interior and its functions are transferred to the Federal Security Agency and shall be administered under the direction and supervision of the Federal Security Administrator

(c) Howard University

The functions of the Department of the Interior relating to the administration of Howard University are transferred to the Federal Security Agency and shall be administered under the direction and supervision of the Federal Security Administrator. The annual report required to be furnished to the Secretary of the Interior by the president and directors of the University shall be furnished to the Federal Security Administrator. The Office of Education shall continue to make its inspections of and reports on the affairs of Howard University in accordance with the provisions of existing law.

(d) Columbia Institution for the Deaf

The functions of the Department of the Interior relating to the administration of the Columbia Institution for the Deaf are transferred to the Federal Security Agency and shall be administered under the direction and supervision of the Federal Security Administrator. The annual report required to be furnished to the Secretary of the Interior by the president and directors of the Institution shall be furnished to the Federal Security Administrator, and the annual report of the superintendent of the Institution to the Congress shall be submitted through the Federal Security Administrator.

(e) Federal Security Administrator

The functions transferred by this section shall be administered under the direction and supervision of the Federal Security Administrator through such officers or subdivisions of the Federal Security Agency as the Administrator shall designate.

§ 12. Transfer of Food and Drug Administration

The Food and Drug Administration in the Department of Agriculture and its functions, except those functions relating to the administration of the Insecticide Act of 1910 and the Naval Stores Act [former sections 121—134 of title 7 and sections 91—99 of title 7], are transferred to the Federal Security Agency and shall be administered under the direction and supervision of the Federal Security Administrator. The Chief of the Food and Drug Administration shall hereafter be known as the Commissioner of Food and Drugs.

GENERAL PROVISIONS

§ 13. Transfer of Functions of Heads of Departments

Except as otherwise provided in this Plan, the functions of the head of any department relating to the administration of any agency or function transferred from his department by this Plan are transferred to, and shall be exercised by the head of the department or agency to which such transferred agency or function is transferred by this Plan.

§ 14. Transfer of Records, Property, and Personnel

Except as otherwise provided in this Plan, all records and property (including office equipment) of the several agencies, and all records and property used primarily in the administration of any functions transferred by this Plan, and all personnel used in the administration of such agencies and functions (including officers whose chief duties relate to such administration and whose offices are not abolished) are transferred to the respective agencies concerned, for use in the administration of the agencies and functions transferred by this Plan: *Provided,* That any personnel transferred to any agency by this section found by the head of such agency to be in excess of the personnel necessary for the administration of the functions transferred to his agency shall be retransferred under existing law to other positions in the Government service, or separated from the service subject to the provisions of section 10(a) of the Reorganization Act of 1939.

§ 15. Transfer of Funds

So much of the unexpended balances of appropriations, allocations, or other funds available for the use of any agency in the exercise of any function transferred by this Plan, or for the use of the head of any agency in the exercise of any function so transferred, as the Director of the Bureau of the Budget with the approval of the President shall determine, shall be transferred to the agency concerned for use in connection with the exercise of the function so transferred. In determining the amount to be transferred the Director of the Bureau of the Budget may include an amount to provide for the liquidation of obligations incurred against such appropriations, allocations, or other funds prior to the transfer: *Provided,* That the use of the unexpended balances of appropriations, allocations, or other funds transferred by this section shall be subject to the provisions of section 4(d)(3) and section 9 of the Reorganization Act of 1939.

Message of the President

To the Congress of the United States:

One year ago the Congress directed the President to investigate the organization of the Executive establishment and to submit plans for such transfers, consolidations, and abolitions of agencies as were found necessary and desirable.

Shortly thereafter I submitted Reorganization Plan No. I which improved the over-all management of the Executive branch. This was followed by Reorganization Plan No. II which effected a better allocation of certain agencies and activities among departments. Although these two plans have been in effect less than a year, their benefits have already been gratifying. I have found the task of coordinating the work of the Executive branch less difficult. Many improvements in service have occurred, and substantial economies have resulted.

Reorganization Plan No. III, recently submitted, is a third step which will improve intradepartmental management through internal adjustment in certain agencies.

I am now proposing a fourth reorganization plan which provides for a number of interdepartmental reorganizations. These changes are designed to increase efficiency in the administration of Government services by a more logical grouping of certain functions and by a further reduction in the number of independent agencies reporting directly to the Chief Executive.

Accordingly, I am transmitting herewith Reorganization Plan No. IV, which, after investigation, I have prepared in pursuance of section 4 of the Reorganization Act of 1939 (Public, No. 19, 76th Cong., 1st sess.) approved April 3, 1939; and I declare with respect to each reorganization made in this plan, that I have found such reorganization necessary to accomplish one or more of the purposes of section 1 (a) of the act:

1. To reduce expenditures;
2. To increase efficiency;
3. To consolidate agencies according to major purposes;
4. To reduce the number of agencies by consolidating those having similar functions and by abolishing such as may not be necessary;
5. To eliminate overlapping and duplication of effort.

The plan I now transmit I shall describe briefly as follows:

DEPARTMENT OF STATE

The Dominican Customs Receivership is transferred to the Department of State from the Division of Territories and Island Possessions in the Department of the Interior. The State Department is the most appropriate agency to supervise this activity which involves relations with a foreign government.

TREASURY DEPARTMENT

The plan transfers to the Secretary of the Treasury the function of the Attorney General of approving out-of-court settlements—technically termed compromises—of cases arising under the Federal Alcohol Administration Act which have not, prior to compromise, been referred to the Department of Justice for prosecution. The present requirement that the Attorney General approve all compromises results in a cumbersome, time-consuming procedure which the small amounts involved do not warrant. The proposed handling will be simpler, less likely to cause delay, and consistent with the procedure now followed in compromises arising under other acts which the Treasury Department administers.

DEPARTMENT OF JUSTICE

Executive Order No. 6166, issued June 20, 1933, provided for the centralization of the disbursement function in a Division of Disbursement in the Treasury Department. The resulting increase in efficiency has amply demonstrated the wisdom of centralizing disbursement work. In effectuating the plan, however, I have found it necessary to postpone its application to United States marshals because of the unusual character of their disbursing work in serving the courts. Experience indicates that this arrangement should be continued. I am proposing, therefore, the permanent transfer of the disbursement function of United States marshals from the Treasury Department to the Department of Justice.

POST OFFICE DEPARTMENT

It has also been found desirable to continue permanently in the Post Office Department the disbursement of Post Office funds. The special character of the work of this Department, involving disbursements in thousands of post offices throughout the Nation, requires here, as well as in the case of the United States marshals, a departure from the sound theory of central disbursing. With its far-flung facilities, the Post Office Department is better equipped to carry on this work than the Division of Disbursement.

Another proposal affecting the Post Office Department relates to the transportation of mail and other material between departments. In the early colonial days, the interchange of correspondence and messages was by the simple hand-to-hand method. Gradually a more systematic device became necessary to transport messages, with the resultant evolution of the postal service. Business and private citizens in general have made use of that service, and today we have in our Post Office Department the most efficient organization of its kind in the world. However, here in the Capital City, the Federal Government, instead of utilizing fully the resources of the Post Office Department to maintain its mail and messenger service, has permitted a multiplicity of interdepartmental messenger services, each serving its own department, bureau, or agency. This duplication of services is uneconomical and results in a constant crisscrossing and overlapping of personnel and equipment, all engaged in a common activity. I am sure that the average citizen in Washington, as well as officials of the Government itself, have wondered at this paradox whereby the Federal Government is failing to make the fullest use of one of its own agencies which is specially equipped to render a simple, centralized service for all the other agencies. This reorganization plan proposes to do exactly that; to provide for the transportation of mail, documents, packages, and similar material between all buildings occupied by Government offices on a regularly scheduled basis of sufficient frequency to meet the reasonable and normal requirements of these offices and to reduce to a minimum the constant dispatching of messengers on so-called urgent and emergency errands. This service will be available on a reimbursement basis to the agencies exempted by the Reorganization Act.

DEPARTMENT OF THE INTERIOR

I propose to transfer to the Department of the Interior the activities of the Soil Conservation Service relating to soil and moisture conservation on lands under the jurisdiction of the Interior Department. With respect to private lands, the soil-conservation work of the Federal Government is primarily of a consultative character and can best be carried on by the Department of Agriculture through cooperation of the farmers throughout the country. In the case of Federal lands, this work includes the actual application by the Government of soil-conservation practices and is an appropriate function of the agency administering the land.

DEPARTMENT OF COMMERCE

One of the purposes of the Reorganization Act is to reduce the number of administrative agencies and thereby simplify the task of executive management. We have made substantial progress toward this objective under previous reorganization plans. I am now proposing another step in this direction by placing the Civil Aeronautics Authority within the framework of the Department of Commerce. Reorganization Plan No. III, which deals with intradepartmental changes, draws a more practical separation between the functions of the Administrator and the Civil Aeronautics Board. In Plan IV, which is concerned with interdepartmental reorganization, I am bringing the Authority into the departmental structure. The Administrator will report to the Secretary of Commerce. The five-member Board, however, will perform its rule-making, adjudicative, and investigative functions independent of the Department. In the interest of efficiency it will be supplied by the Department with budgeting, accounting, procurement, and other office services. As a result of the adjustments provided in Plans III and IV, I believe the Civil Aeronautics Board will be able effectively to carry forward the important work of accident investigation heretofore performed by the Air Safety Board. In addition to the effective and coordinated discharge of accident investigation work which this transfer will facilitate, economies in administration will be possible.

The importance of the Weather Bureau's functions to the Nation's commerce has also led to the decision to transfer this Bureau to the Department of Commerce. The development of the aviation industry has imposed upon the Weather Bureau a major responsibility in the field of air transportation. The transfer to the Department of Commerce, as provided in this plan, will permit better coordination of Government activities relating to aviation and to commerce generally, without in any way lessening the Bureau's contribution to agriculture.

DEPARTMENT OF LABOR

The plan transfers to the Secretary of Labor the functions of the Secretary of the Treasury and the Secretary of the Interior relating to the enforcement of the minimum-wage provisions in contracts for Federal construction. The Secretary of Labor is responsible by law for the determination of the prevailing wage rates included in Government contracts and should properly have complete responsibility for their enforcement.

UNITED STATES MARITIME COMMISSION

I propose to transfer to the United States Maritime Commission the functions of the Secretary of the Navy relating to State marine and nautical schools. These schools are devoted to training young men for junior officer positions in the merchant marine. The general responsibility for developing facilities for the training of merchant marine personnel is vested in the Maritime Commission. The proposed transfer will thus permit closer coordination of the nautical schools with the training work of the Maritime Commission.

FEDERAL SECURITY AGENCY

The Federal Security Agency has as its major purposes the promotion of social and economic security, educational opportunity, and the health of the citizens. The functions of Saint Elizabeths Hospital, Freedmen's Hospital, Howard University, and Columbia Institution for the Deaf plainly come squarely within these purposes. Consequently, I find it necessary and desirable in pursuance of the objectives of the Reorganization Act to transfer to the Federal Security Agency the responsibilities of the Interior Department relating to these institutions. The work of Saint Elizabeths Hospital and Freedmen's Hospital is much more akin to the activities of the Public Health Service in the Federal Security Agency than to those of any other Federal establishment. Similarly, Howard University and Columbia Institution for the Deaf can derive more benefit from association with the Office of Education in the Federal Security Agency than with any other Federal organization.

I further propose to transfer to the Federal Security Agency the Food and Drug Administration with the exception of two activities intimately related to the work of the Department of Agriculture. The work of the Food and Drug Administration is unrelated to the basic functions of the Department of Agriculture. There was, however, no other agency to which these functions more appropriately belonged until the Federal Security Agency was created last year. I now believe that the opportunity for the Food and Drug Administration to develop along increasingly constructive lines lies in this new Agency. There is also need for coordination of certain of its functions with those of the Public Health Service. To accomplish these objectives, the plan establishes the Administration as a separate unit within the Federal Security Agency.

ECONOMIES

Functions may be transferred or consolidated under this Reorganization Act, but the abolition of functions is prohibited. Congress alone can curtail or abolish functions now provided by law. Savings must come from administrative expenses which comprise only a small fraction of Federal expenditures. This precludes the making of large reductions in expenditure through reorganization plans. The major achievements in reorganizations under this formula must inevitably be found in improved management and more effective service. However, some savings in administrative expenses will be possible under this plan. I estimate the immediate annual savings at approximately $300,000.

FUTURE REORGANIZATION NEEDS

The reorganization plans thus far submitted do not exhaust the transfers, consolidations, and abolitions that may be necessary and desirable. Some changes that now appear to have merit require further study. It is the responsibility of the President as Chief Executive to see that needed adjustments and improvements in administrative organization are made. But this he cannot adequately accomplish without proper statutory authority. The present Reorganization Act entirely exempts some 21 administrative agencies from consideration. Furthermore this act expires on January 20, 1941.

I strongly recommend the reenactment of the Reorganization Act, without exemptions. The structure and management of our Government, like the activities and services it performs, must be kept abreast of social and economic change.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, April 11, 1940.

REORGANIZATION PLAN NO. V OF 1940

Eff. June 15, 1940, 5 F.R. 2223, 54 Stat. 1238 by act June 4, 1940, ch. 231, § 1, 54 Stat. 230

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 22, 1940, pursuant to the provisions of the Reorganization Act of 1939, Approved April 3, 1939.

IMMIGRATION AND NATURALIZATION SERVICE

§ 1. TRANSFER OF IMMIGRATION AND NATURALIZATION SERVICE

The Immigration and Naturalization Service of the Department of Labor (including the Office of the Commissioner of Immigration and Naturalization) and its functions are transferred to the Department of Justice and shall be administered under the direction and supervision of the Attorney General. All functions and powers of the Secretary of Labor relating to the administration of the Immigration and Naturalization Service and its functions or to the administration of the immigration and naturalization laws are transferred to the Attorney General. In the event of disagreement between the head of any department or agency and the Attorney General concerning the interpretation or application of any law pertaining to immigration, naturalization, or nationality, final determination shall be made by the Attorney General.

§ 2. TRANSFER OF RECORDS, PROPERTY, AND PERSONNEL

All records, property, and personnel (including office equipment) of the Immigration and Naturalization Service, and all records, property, and personnel of the Department of Labor used primarily in the administration of functions transferred by this Plan (including officers whose chief duties relate to such administration), are transferred to the Department of Justice: *Provided*, That any personnel so transferred that may be found by the Attorney General to be in excess of the personnel necessary for the administration of the functions transferred by this Plan, shall be retransferred under existing law to other positions in the Government service, or separated from the service subject to the provisions of section 10(a) of the Reorganization Act of 1939.

§ 3. TRANSFER OF FUNDS

So much of the unexpended balances of appropriations, allocations, or other funds available (including funds available for the fiscal year ending June 30, 1941) for the use of the Immigration and Naturalization Service or the Department of Labor in the exercise of functions transferred by this Plan as the Director of the Bureau of the Budget with the approval of the President shall determine, shall be transferred to the Department of Justice for use in connection with the exercise of the functions so transferred. In determining the amount to be transferred the Director of the Bureau of the Budget may include an amount to provide for the liquidation of obligations incurred against such appropriations, allocations, or other funds prior to the transfer: *Provided*, That the use of the unexpended balances of appropriations, allocations, or other funds transferred by this section shall be subject to the provisions of sections 4(d)(3) and section 9 of the Reorganization Act of 1939.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

When Reorganization Plan No. IV was submitted to Congress, I did not contemplate the transmittal of any additional plans during the current session. However, the startling sequence of international events which has occurred since then has necessitated a review of the measures required for the Nation's safety. This has revealed a pressing need for the transfer of the immigration and naturalization functions from the Department of Labor to the Department of Justice. I had considered such an interdepartmental transfer for some time but did not include it in the previous reorganization plans since much can be said for the retention of these functions in the Department of Labor during normal times. I am convinced, however, that under existing conditions the immigration and naturalization activities can best contribute to the national well-being only if they are closely integrated with the activities of the Department of Justice.

I am, therefore, transmitting herewith Reorganization Plan No. V which I have prepared in accordance with the provisions of section 4 of the Reorganization Act of 1939 (Public, No. 19, 76th Cong., 1st sess.) approved April 3, 1939; and I declare that I have found that such reorganization is necessary to accomplish one or more of the purposes of section 1(a) (section 133 of this title) of the act:

1. To reduce expenditures;
2. To increase efficiency;
3. To consolidate agencies according to major purposes;
4. To reduce the number of agencies by consolidating those having similar functions and by abolishing such as may not be necessary; and
5. To eliminate overlapping and duplication of effort.

This plan provides for transferring the Immigration and Naturalization Service from the Department of Labor to the Department of Justice. While it is designed to afford more effective control over aliens, this proposal does not reflect any intention to deprive them of their civil liberties or otherwise to impair their legal status. This reorganization will enable the Government to deal quickly with those aliens who conduct themselves in a manner that conflicts with the public interest. No monetary savings are anticipated.

I realize that the Congress may adjourn before the termination of the 60-day period provided under the Reorganization Act, but in that event and in view of the urgency of this matter I hope that it will take such action as will permit this plan to go into effect.

FRANKLIN D. ROOSEVELT.

THE WHITE HOUSE, May 22, 1940.

REORGANIZATION PLAN NO. 2 OF 1946

Eff. July 16, 1946, 11 F.R. 7873, 60 Stat. 1095, by act Dec. 20, 1945, ch. 582, 59 Stat. 613

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 16, 1946, pursuant to the provisions of the Reorganization Act of 1945, approved December 20, 1945.

FEDERAL SECURITY AGENCY AND DEPARTMENT OF LABOR

SECTION 1. CHILDREN'S BUREAU.—(a) The Children's Bureau in the Department of Labor, exclusive of its Industrial Division, is transferred to the Federal Security Agency. All functions of the Children's Bureau and of the Chief of the Children's Bureau except those transferred by subsection (b) of this section, all functions of the Secretary of Labor under title V of the Social Security Act (49 Stat. 620, ch. 531), as amended [section 701 et seq. of Title 42], and all other functions of the Secretary of Labor relating to the foregoing functions are transferred to the Federal Security Administrator and shall be performed by him or under his direction and control by such officers and employees of the Federal Security Agency as he shall designate, except that the functions authorized by section 2 of the act of April 9, 1912 (37 Stat. 79, ch. 73), as amended [former section 192 of Title 40], and such other functions of the Federal Security Agency as the Administrator may designate, shall be administered, under his direction and control, through the Children's Bureau.

(b) The functions of the Children's Bureau and the Chief of the Children's Bureau under the Fair Labor Standards Act of 1938 (52 Stat. 1060, ch. 676), as amended [section 201 et seq. of Title 29], are transferred to the Secretary of Labor and shall be performed under his direction and control by such officers and employees of the Department of Labor as he shall designate.

SEC. 2. VITAL STATISTICS.—The functions of the Secretary of Commerce, the Bureau of the Census, and the Director of the Bureau of the Census, with respect to vital statistics (including statistics on births, deaths, marriages, divorces, and annulments), are transferred to the Federal Security Administrator and shall be performed under his direction and control by the United States Public Health Service or by such officers and employees of the Federal Security Agency as the Administrator shall designate.

SEC. 3. [Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662].

SEC. 4. SOCIAL SECURITY BOARD.—The functions of the Social Security Board in the Federal Security Agency, together with the functions of its Chairman, are transferred to the Federal Security Administrator and shall be performed by him or under his direction and control by such officers and employees of the Federal Security Agency as he shall designate. The Social Security Board is abolished.

SEC. 5. ASSISTANT HEADS OF FEDERAL SECURITY AGENCY.—In addition to the existing Assistant Federal Security Administrator there shall be not to exceed two assistant heads of the Federal Security Agency, each of whom shall be appointed by the Federal Security Administrator under the classified civil service, receive a salary at the rate of $10,000 per annum, and perform such duties and head such constituent unit of the Federal Security Agency as the Administrator may provide.

SEC. 6. FUNCTIONS UNDER ACT OF JUNE 20, 1936, WITH RESPECT TO THE BLIND.—The functions of the Office of Education and of the Commissioner of Education under the act of June 20, 1936 (49 Stat. 1559, ch. 638) [sections 107-107f of Title 20], are transferred to the Federal Security Administrator and shall be performed under his direction and control by such officers and employees of the Federal Security Agency as he shall designate.

SEC. 7. ASSISTANT COMMISSIONER OF EDUCATION.—The functions of the Assistant Commissioner of Education, created by the act of May 26, 1930 (46 Stat. 384, ch. 330) [section 2a of Title 20], are transferred to the Office of Education to be performed under the direction and control of the Commissioner of Education by such officers or employees of the Office as he may designate with the approval of the Federal Security Administrator. The Office of Assistant Commissioner of Education is abolished.

SEC. 8. FEDERAL BOARD FOR VOCATIONAL EDUCATION.—The Federal Board for Vocational Education and its functions are abolished.

SEC. 9. BOARD OF VISITORS OF ST. ELIZABETHS HOSPITAL.—The Board of Visitors of St. Elizabeths Hospital and its functions are abolished.

SEC. 10. COORDINATION OF GRANT-IN-AID PROGRAMS.—In order to coordinate more fully the administration of grant-in-aid programs by officers and constituent units of the Federal Security Agency, the Federal Security Administrator shall establish, insofar as practicable, (a) uniform standards and procedures relating to fiscal, personnel, and the other requirements common to two or more such programs, and (b) standards and procedures under which a State agency participating in more than one such program may submit a single plan of operation and be subject to a single Federal fiscal and administrative review of its operation.

SEC. 11. WINDING UP OF AFFAIRS.—Suitable measures shall be taken by the Federal Security Administrator to wind up those outstanding affairs of the agencies herein abolished which are not otherwise disposed of by this plan.

SEC. 12. TRANSFER OF PERSONNEL, PROPERTY, RECORDS AND FUNDS.—The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), which the Director of the Bureau of the Budget shall determine to relate primarily to the functions transferred hereunder, are transferred to the respective agencies concerned for use in the administration of the functions so transferred, except that all of the personnel, property, records, and funds of the Industrial Division of the Children's Bureau shall be transferred to such agency or agencies of the Department of Labor as the Secretary of Labor shall designate. Any of the personnel transferred under this plan which the transferee agency shall find to be in excess of the personnel necessary for the administration of the functions transferred to such agency shall be retransferred under existing law to other positions in the Government or separated from the service.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

The fundamental strength of a nation lies within its people. Military and industrial power are evidences, not the real source of strength. Over the years the propserity of America and its place in the world will depend on the health, the education, the ingenuity, and the integrity of its people and on their ability to work together and with other nations.

The most basic and at the same time the most difficult task of any country is the conservation and development of its human resources. Under our system of government this is a joint responsibility of the Federal, State, and local governments, but in it the Federal Government has a large and vital role to play. Through its research, advice, stimulation, and financial aid, it contributes greatly to progress and to the equalization of standards in the fields of education, health, and welfare; and in the field of social insurance it also directly administers a major segment of the program.

To meet its full responsibilities in these fields, the Federal Government requires efficient machinery for the administration of its social programs. Until 1939 the agencies in charge of these activities were scattered in many parts of the Government. In that year President Roosevelt took the first great step toward effective organization in this area when he submitted Reorganization Plan 1, establishing the Federal Security Agency—to promote social and economic security, educational opportunity, and the health of the citizens of the Nation.

The time has now come for further steps to strengthen the machinery of the Federal Government for leadership and service in dealing with the social problems of the country. Several programs closely bound up with the objectives of the Federal Security Agency are still scattered in other parts of the Government. As the next step, I consider it essential to transfer these programs to the Federal Security Agency and to strengthen its internal organization and management.

Broadly stated, the basic purpose of the Federal Security Agency is the conservation and development of the human resources of the Nation. Within that broad objective come the following principal functions: Child care and development, education, health, social insurance, welfare (in the sense of care of the needy and the defective), and recreation (apart from the operation of parks in the public domain).

These functions constitute a natural family of closely related services, interwoven at many points and in many ways. For example, the development of day-care centers for children has involved joint planning and service by specialists of the Children's Bureau, the Office of Education, the Public Health Service, and several other agencies. The schools are both a major consumer of public-health services and a leading vehicle for health education and for disseminating the results of research carried on by the Public Health Service. The promotion of social security involves a whole battery of activities, especially social insurance, public assistance, health, and child welfare.

In order to proceed as promptly as possible with the development of the Federal Security Agency to meet the postwar responsibilities of the Government within its field of activity, I am transmitting herewith Reorganization Plan No. 2, which I have prepared in accordance with the provisions of section 3 of the Reorganization Act of 1945 (Public Law 263, 79th Cong., 1st Sess.), approved December 20, 1945; and I declare that, with respect to each reorganization made in this plan, I have found that such reorganization is necessary to accomplish one or more of the purposes of section 2 (a) of the act—

(1) To facilitate orderly transition from war to peace;

(2) To reduce expenditures and promote economy;

(3) To increase efficiency;

(4) To group, coordinate, and consolidate agencies and functions according to major purposes;

(5) To reduce the number of agencies by consolidating those having similar functions and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; and

(6) To eliminate overlapping and duplication of effort.

The plan includes certain interagency transfers and several abolitions and changes in the internal organization of the Federal Security Agency.

The plan transfers to the Federal Security Administrator the functions of the Children's Bureau, except those relating to child labor under the Fair Labor Standards Act. These child-labor functions are transferred to the Secretary of Labor in order that they may be performed by, or in close relationship with, the Wage and Hour Division which administers the rest of the act. The plan continues the Children's Bureau within the Federal Security Agency to deal with problems of child life, but is flexible enough to enable the Administrator to gear in the Bureau's programs effectively with other activities of the Agency.

The child-labor program is the only permanent program of the Children's Bureau that is properly a labor function. The other four—child welfare, crippled children, child and maternal health, and research in problems of child life—all fall within the scope of the Federal Security Agency. The transfer of the Children's Bureau will not only close a serious gap in the work of the Agency, but it will strengthen the child-care programs by bringing them into closer association with the health, welfare, and educational activities with which they are inextricably bound up.

The promotion of the education, health, welfare, and social security of the Nation is a vast cooperative undertaking of the Federal, State, and local governments. It involves numerous grant-in-aid programs and complex intergovernmental relations. The transfer of the Children's Bureau will simplify these relations and make for better cooperation.

To illustrate, State welfare departments now depend on both the Bureau of Public Assistance in the Federal Security Agency and the Children's Bureau in the Labor Department for funds for child-care activities. Similarly, State health departments obtain grants from the Public Health Service for general public health work and from the Children's Bureau for child and maternal health activities. All of these grants involve the establishment of minimum standards and a measure of Federal supervision. The transfer of the Children's Bureau programs will make it possible to develop more consistent policies and procedures and to simplify dealings with the States. This will eliminate needless inconvenience for both parties and enable the State and Federal Governments to join more efficiently in their common objective of furthering the health and welfare of the American child.

Next, the plan transfers the vital statistics functions of the Census Bureau to the Federal Security Administrator, to be performed through the Public Health Service or other facilities of the Federal Security Agency. In every State but one the State health department is in charge of vital statistics. The work in the States is partially financed from public-health grants administered by the Public Health Service. This transfer will make the agency providing the grants also responsible for carrying on the Federal part of the vital statistics program. Furthermore, it will make for a better correlation of vital statistics with morbidity statistics, which are closely connected in nature and are already handled by the Public Health Service. In addition, the Federal Security Agency, more than any other Federal agency in peacetime, depends on vital statistics and vital records in the operation of its programs.

The plan transfers the functions of the United States Employees Compensation Commission to the Federal Security Administrator, and provides for a three-member board of appeals to hear and finally decide appeals on claims of Government employees. By abolishing the Commission, the plan eliminates a small agency and lightens the burden on the President. The Federal Security Administrator, as the head of the Federal agency with the greatest experience in insurance administration, is in the best position to guide and further the program of the Commission.

The abolition of the Commission as an administrative body and the creation of an appeals board will provide the advantages of a single official in charge of operations while affording claimants the protection of a three-member board for the final decision of appeals on claims. This arrangement has proved both administratively efficient and satisfactory to claimants in many similar programs. It is essentially the plan used in the administration of veterans' pensions and old-age and survivors insurance and employed by many States in their workmen's compensation programs. The board of appeals created by this plan will deal only with claims of Government employees since appeals on other types of claims under the jurisdiction of the Commission—(a) longshoremen and harbor workers and (b) private employees in the District of Columbia—are heard by the Federal district courts rather than the Commission.

The reorganization plan which created the Federal Security Agency in 1939 provided that the Federal Security Administrator should direct and supervise the Social Security Board, and that he might assign administrative duties to the Chairman of the Board, rather than to the Board as a whole. Thus, it took the first step toward establishing a definite line of responsibility for the administration of social security functions in the Agency. The plan I am now submitting further clarifies these lines of responsibility by providing for the normal type of internal organization used in Federal departments and agencies.

A full-time board in charge of a group of bureaus within an agency is at best an anomaly. The Social Security Board rendered an outstanding service in launching the social-security program, and its members deserve the thanks of the Nation for this achievement. That program, however, is now firmly established and its administration needs to be tied in more fully with other programs of the Federal Security Agency. The existence of a department within a department is a serious barrier to effective integration.

In order to obtain more expeditious and effective direction for the social-security program and to further the development of the Federal Security Agency, this plan transfers the functions of the Social Security Board to the Federal Security Administrator and provides for not more than two new assistant heads of the Agency for the administration of the program. Because of the additional functions transferred to the Administrator by this plan, I have found that these officers will be needed to assist him in the general management of the Agency and to head the constituent unit or units which the Administrator will have to establish for the conduct of social-security activities.

To permit a consolidation of work for the blind, the functions of the Office of Education as to the vending-stand program for the blind are transferred to the Federal Security Administrator, in whom are vested other vocational rehabilitation functions. This transfer will permit the program to be assigned to the Office of Vocational Rehabilitation, where other vocational rehabilitation activities for the blind are now concentrated.

The office of Assistant Commissioner of Education, established by the act of May 26, 1930, is abolished. A basic reorganization of the Office of Education within the past year has made this officer the head of one of the divisions of the Office. It is, therefore, administratively desirable to abolish the post of Assistant Commissioner in conformity with the present organization of the Office.

The plan also abolishes the Federal Board of Vocational Education and its functions. The Board, established by the act of February 23, 1917, as amended [section 11 et seq. of Title 20], formerly had charge of the administration of the vocational-education program. Section 15 of Executive Order 6166, of June 10, 1933, issued under authority of the act of June 30, 1932 (47 Stat. 413, ch. 314), as amended, transferred the administration of the program to the Office of Education and limited the Board to acting in an advisory capacity. The Advisory Committee on Education, on the basis of its study of the vocational-education system, found that the Board was no longer needed and recommended its abolition.

To avoid possible confusion and conflict of authority, the Board of Visitors of St. Elizabeths Hospital and its functions are abolished. The functions of the Board, as provided by section 4842 of the Revised Statutes include supervision of the institution and the adoption of its bylaws, in addition to visiting the institution and advising the superintendent. These functions overlap the responsibilities of the Federal Security Administrator for the general supervision and direction of the hospital.

In order to enable the Administrator more adequately to coordinate the administration of the grant-in-aid programs vested by statute in the constituent units of the Federal Security Agency, the plan provides that, insofar as practicable and consistent with the applicable legislation, he shall establish uniform standards and procedures for these programs and permit States to submit a single plan of operation for related grant-in-aid programs. Most of these programs involve the establishment of certain minimum standards on fiscal, personnel, and other aspects of administration in the States. In many cases the same State agency is operating under two or more grant-in-aid programs. Much needless inconvenience and confusion can be avoided for all concerned by unifying Federal standards and combining State plans for the operation of the programs in such cases.

After careful consideration of a number of other agencies and functions I have refrained from proposing in this plan their transfer to the Federal Security Agency. Most of these involve activities which, though related to the functions of the Federal Security Agency, are incidental to the purpose of other agencies or are connected so closely with such agencies as to make transfer undesirable. A few are activities which should probably be shifted in whole or in part to the Federal Security Agency, but I believe such shifts can best be accomplished by interagency agreement or action in connection with appropriations.

The reorganization plan here presented is a second important step in building a central agency for the administration of Federal activities primarily relating to the conservation and development of human resources; but, while this step is important in itself, I believe that a third step should soon be taken. The time is at hand when that agency should be converted into an executive department.

The size and scope of the Federal Security Agency and the importance of its functions clearly call for departmental status and a permanent place in the President's Cabinet. In number of personnel and volume of expenditures the Agency exceeds several of the existing departments. Much more important, the fundamental character of its functions—education, health, welfare, social insurance—and their significance for the future of the country demand for it the highest level of administrative leadership and a voice in the central councils of the executive branch.

Accordingly, I shall soon recommend to the Congress that legislation be promptly enacted making the Federal Security Agency an executive department, defining its basic purpose, and authorizing the President to transfer to it such units and activities as come within that definition.

The people expect the Federal Government to meet its full responsibilities for the conservation and development of the human resources of the Nation in the years that lie ahead. This reorganization plan and the legislation that I shall propose will provide the broad and firm foundation required for the accomplishment of that objective.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 16, 1946.

REORGANIZATION PLAN NO. 3 OF 1946

Eff. July 16, 1946, 11 F.R. 7875, 60 Stat. 1097, by Act Dec. 20, 1945, ch. 582, 59 Stat. 613

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 16, 1946, pursuant to the provisions of the Reorganization Act of 1945, approved December 20, 1945.

PART I. DEPARTMENT OF THE TREASURY

SECTION 101. FUNCTIONS TRANSFERRED TO THE UNITED STATES COAST GUARD.—(a) There are hereby transferred to the Commandant of the Coast Guard those functions of the bureau, offices, and boards specified in the first sentence of section 104 of this plan, and of the Secretary of Commerce, which pertain to approval of plans for the construction, repair, and alteration of vessels; approval of materials, equipment, and appliances; classification of vessels; inspection of vessels and their equipment and appliances; issuance of certificates of inspection, and of permits indicating the approval of vessels for operations which may be hazardous to life or property; administration of load line requirements; enforcement of other provisions for the safety of life and property on vessels; licensing and certificating of officers, pilots, and seamen; suspension and revocation of licenses and certificates; investigation of marine casualties; enforcement of manning requirements, citizenship requirements, and requirements for the mustering and drilling of crews, control of logbooks; shipment, discharge, protection, and welfare of merchant seamen; enforcement of duties of shipowners and officers after accidents; promulgation and enforcement of rules for lights, signals, speed, steering, sailing, passing, anchorage, movement, and towlines of vessels and lights and signals on bridges; numbering of undocumented vessels; prescription and enforcement of regulations for outfitting and operation of motorboats; licensing of motorboat operators; regulation of regattas and marine parades; all other functions of such bureau, offices, and boards which are not specified in section 102 of this plan: and all other functions of the Secretary of Commerce pertaining to those functions of the agencies abolished under section 104 of this plan which are not specified in section 102 of this plan, including the remission and mitigation of fines, penalties, and forfeitures incurred under the laws governing these functions and those incurred under the act of December 17, 1941 (55 Stat. 808), as amended.

(b) The functions relating to the award of numbers to undocumented vessels vested by law in the collectors of customs are hereby transferred to the Commandant of the Coast Guard.

SEC. 102. FUNCTIONS TRANSFERRED TO THE BUREAU OF CUSTOMS.—There are hereby transferred to the Commissioner of Customs those functions of the bureau, offices, and boards specified in the first sentence of section 104 of this plan, and of the Secretary of Commerce, which pertain to registry, enrollment, and licensing of vessels, including the issuance of commissions to yachts, the assignment of signal letters, and the preparation of all reports and publications in connection therewith; measurement of vessels, administration of tonnage duties, and collection of tolls; entry and clearance of vessels and aircraft, regulation of vessels in the coasting and fishing trades, and limitation of the use of foreign vessels in waters under the jurisdiction of the United States; recording of sales, conveyances, and mortgages of vessels; protection of steerage passengers; all other functions of such bureau, offices, and boards which were performed by the Bureau of Customs on behalf thereof immediately prior to the effective date of Executive Order No. 9083 of February 28, 1942 (7 F.R. 1609); and the power to remit and mitigate fines, penalties, and forfeitures incurred under the laws governing these functions.

SEC. 103. POWERS OF THE SECRETARY OF THE TREASURY.—The functions transferred by sections 101 and 102 of this plan may be performed through such officers and employees of the United States Coast Guard and the Bureau of Customs, respectively, as may be designated by the Commandant of the Coast Guard and the Commissioner of Customs, respectively, and shall be performed subject to the direction and control of the Secretary of the Treasury except as otherwise required by law with respect to the United States Coast Guard whenever it operates as a part of the Navy.

SEC. 104. ABOLITION OF AGENCIES.—The Bureau of Marine Inspection and Navigation, the office of the director thereof, the offices of supervising inspectors, principal traveling inspectors, local inspectors, assistant inspectors, shipping commissioners, deputy shipping commissioners, and the board of supervising inspectors, the boards of local inspectors, the marine casualty investigation board, and the marine boards are hereby abolished. The Secretary of the Treasury shall provide for winding up those affairs of the said abolished agencies which are not otherwise disposed of herein.

PART II. DEPARTMENT OF WAR AND DEPARTMENT OF THE NAVY

SECTION 201. FUNCTIONS WITH RESPECT TO CERTAIN INSANE PERSONS.—(a) The functions of St. Elizabeth Hospital and the Superintendent thereof, and of the Federal Security Agency and the Federal Security Administrator, with respect to the care, treatment, and custody of insane persons, as provided in section 4843 of the Revised Statutes [section 191 of Title 24], are hereby transferred or abolished as follows:

(1) Functions with respect to insane persons belonging to the Army or falling, by reason of employment or service in the Army, within any of the categories enumerated in said section, are transferred to the Secretary of the Army and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of War as he may designate.

(2) Functions with respect to insane persons belonging to the Navy or falling, by reason of prior service in the Navy, within any of the categories enumerated in said section, are transferred to the Secretary of the Navy and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of the Navy as he may designate. (For the purposes of this subpar. (2), the Marine Corps but not the Coast Guard is included in the Navy.)

(3) Functions with respect to insane persons belonging to the Coast Guard are abolished.

(b) Nothing in subsection (a) of this section shall affect the functions and authority of St. Elizabeths Hospital, the Superintendent thereof, the Federal Security Agency, or the Federal Security Administrator, with respect to any person heretofore admitted to St. Elizabeths Hospital and a patient therein on the effective date of this plan under the provisions of section 4843 of the Revised Statutes [section 191 of Title 24], or the functions and authority of said officers and agencies or of the Public Health Service with respect to Coast Guard members as beneficiaries of the Public Health Service, as provided by section 504 of the Public Health Service Act [58 Stat. 710, section 222 of Title 42].

Part III. Department of the Navy

Section 301. Hydrographic Office and Naval Observatory.—The Hydrographic Office and the Naval Observatory, together with their respective functions, are hereby transferred from the Bureau of Naval Personnel, Department of the Navy, to the Chief of Naval Operations, and shall be administered, subject to the direction and control of the Secretary of the Navy, under the Chief of Naval Operations.

Sec. 302. Supply Department of the United States Marine Corps.—The Paymaster's Department of the United States Marine Corps and the Quartermaster's Department of the United States Marine Corps, and the functions of such departments, are hereby consolidated to form a single new agency, which shall be known as the Supply Department of the United States Marine Corps, and at the head of which there shall be the Quartermaster General of the Marine Corps. The office and title of "the Paymaster General of the Marine Corps," provided for in the act of March 24, 1944 (58 Stat. 121), are hereby abolished.

Part IV. Department of the Interior

Section 401.—[Superseded by 1963 Reorg. Plan. No. 1, eff. July 27, 1963, 28 F.R. 7659, 77 Stat. 869.]

Sec. 402.—Functions Relating to Mineral Deposits in Certain Lands.—The functions of the Secretary of Agriculture and the Department of Agriculture with respect to the uses of mineral deposits in certain lands pursuant to the provisions of the act of March 4, 1917 [39 Stat. 1134, 1150, section 520 of Title 16], title II of the National Industrial Recovery Act of June 16, 1933 [48 Stat. 195, 200, 202, 205], the 1935 Emergency Relief Appropriation Act of April 8, 1935 (48 Stat. 115, 118), section 55 of title I of the act of August 24, 1935 (49 Stat. 750, 781), and the act of July 22, 1937 (50 Stat. 522, 525, 530), as amended July 28, 1942 [56 Stat. 725, sections 1011(c) and former 1018 of Title 7] are hereby transferred to the Secretary of the Interior and shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of the Interior as he may designate: *Provided*, That mineral development on such lands shall be authorized by the Secretary of the Interior only when he is advised by the Secretary of Agriculture that such development will not interfere with the primary purposes for which the land was acquired and only in accordance with such conditions as may be specified by the Secretary of Agriculture in order to protect such purposes. The provisions of law governing the crediting and distribution of revenues derived from the said lands shall be applicable to revenues derived in connection with the functions transferred by this section. To the extent necessary in connection with the performance of the functions transferred by this section, the Secretary of the Interior and his representatives shall have access to the title records of the Department of Agriculture relating to the lands affected by this section.

Sec. 403. Bureau of Land Management.—(a) The functions of the General Land Office and of the Grazing Service in the Department of the Interior are hereby consolidated to form a new agency in the Department of the Interior to be known as the Bureau of Land Management. The functions of the other agencies named in subsection (d) of this section are hereby transferred to the Secretary of the Interior.

(b) There shall be at the head of such Bureau a Director of the Bureau of Land Management, who shall be appointed by the Secretary of the Interior under the classified civil service, who shall receive a salary at the rate of $10,000 per annum, and who shall perform such duties as the Secretary of the Interior shall designate.

(c) There shall be in the Bureau of Land Management an Associate Director of the Bureau of Land Management and so many Assistant Directors of the Bureau of Land Management as may be necessary, who shall be appointed by the Secretary of the Interior under the classified civil service and subject to the Classification Act of 1923, as amended, and who shall perform such duties as the Secretary of the Interior may prescribe.

(d) The General Land Office, the Grazing Service, the offices of Commissioner of the General Land Office, Assistant Commissioner of the General Land Office, Director of the Grazing Service, all Assistant Directors of the Grazing Service, all registers of the district land offices, and United States Supervisor of Surveys, together with the Field Surveying Service now known as the Cadastral Engineering Service, are hereby abolished.

(e) The Bureau of Land Management and its functions shall be administered subject to the direction and control of the Secretary of the Interior, and the functions transferred to the Secretary by subsection (a) of this section shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of the Interior as he may designate.

Part V. Department of Agriculture

Section 501. Functions of Certain Agencies of the Department of Agriculture.—The following functions are hereby transferred to the Secretary of Agriculture and shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he shall designate.

(a) All functions of the Agricultural Adjustment Administration and the Surplus Marketing Administration and of the respective heads of such Administrations.

(b) The administration of the programs of the Federal Crop Insurance Corporation and the Commodity Credit Corporation.

Part VI. Department of Commerce

Section 601. Certain Functions of National Bureau of Standards.—The following functions are hereby transferred to the Secretary of Commerce and shall be performed, subject to his direction and control, by such officers and agencies of the Department of Commerce as he may designate.

(a) Those functions of the National Bureau of Standards under section 2 of the act of March 3, 1901 (31 Stat. 1449) [section 272 of Title 15], which are now performed by the Division of Commercial Standards of said Bureau, namely, (1) to assist, coordinate, and cooperate with groups of consumers, distributors or producers, technical organizations, and other persons, in the voluntary establishment, maintenance, recording, publishing, and promoting of commercial standards as a national and internationally recognized basis for testing, grading, labeling, marketing, guaranteeing, or accepting staple, manufactured commodities moving in daily domestic and foreign trade; and (2) to assist in the development of Federal purchase standards specifications and in providing information to the public and the Government of such standards and specifications.

(b) Those functions of said Bureau under said section 2 which are now performed by the Division of Simplified Trade and Practices of said Bureau, namely, to assist, coordinate, and cooperate with individuals and groups of producers, distributors and users in establishing, recording, publishing, and promoting a Nation-wide program for the elimination of avoidable waste through the formulation of simplified trade practice recommendations which identify and list the sizes, types, dimensions, and varieties of products that are in national demand in the country, including but not limited to simplified trade practice recommendations concerning the following commodities: Wood, textiles, paper and rubber products, metal and mechanical products, containers and miscellaneous products, materials handling equipment, ceramic products, electrical products, construction materials, and metal and woodworking tools.

(c) So much of the functions of the Director of said Bureau as relates to the foregoing activities.

Part VII. National Labor Relations Board

Section 701. Strike Ballots Under War Labor Disputes Act.—The functions of the National Labor Relations Board under section 8 of the War Labor Disputes Act (57 Stat. 162, 167, ch. 144) with respect to taking secret ballots of employees on the question of an interruption of war production are hereby abolished.

Part VIII. Smithsonian Institution

Section 801. Canal Zone Biological Area.—The functions of the Board of Directors of the Canal Zone Biological Area (which Board is provided for in the act of July 2, 1940 (54 Stat. 724, ch. 516) [sections 79 to 79e of Title 20], together with the functions of the executive officer of such Board, are hereby transferred to the Smithsonian Institution. The said Board of Directors and the office of the said executive officer are hereby abolished.

Part IX. United States Employment Service

Section 901. Placement Functions Under Selective Training and Service Act of 1940.—There is hereby transferred to the United States Employment Service so much of the functions of the Selective Service System and of the Director of Selective Service under section 8(g) of the Selective Training and Service Act of 1940 (54 Stat. 890, ch. 720) as relates to aiding persons who have satisfactorily completed any period of active duty or of training and service under the said act in securing positions other than the positions held by them prior to said period.

Part X. Records, Property, Personnel, and Funds

Section 1001. Transfer of Records, Property, Personnel, and Funds.—There are hereby transferred to the respective agencies in which functions are vested pursuant to the provisions of this plan, to be used, employed, and expended in connection with such functions, respectively, or in connection with winding up the outstanding affairs of agencies abolished by this plan, (1) the records and property now being used or held in connection with such functions, (2) the personnel employed in connection with such functions, and (3) the unexpended balances of appropriations, allocations, or other funds available or to be made available for use in connection with such functions.

Sec. 1002. Disposition of Excess Personnel.—Any of the personnel transferred under this plan which the transferee agency shall find to be in excess of the personnel necessary for the administration of the functions transferred to such agency by such plan shall be retransferred under existing law to other positions in the Government or separated from the service.

Sec. 1003. Dispositions by Director of the Bureau of the Budget.—Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the provisions of this part or in order to wind up the outstanding affairs relating to agencies or functions abolished by this plan shall be carried out in such manner as the Director may direct and by such agencies as he may designate.

Message to Congress

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1946, prepared in accordance with the provisions of the Reorganization Act of 1945.

The plan contains reorganizations affecting a number of departments and establishments. Some continue on a permanent basis changes made by Executive order under authority of the First War Powers Act. A few make adjustments in the distribution of functions among agencies. The remainder deal with problems of organization within individual agencies. All are concerned with improving and simplifying particular phases of Government administration.

Each proposal is explained in more detail under the appropriate heading below.

I have found, after investigation, that each reorganization contained in the plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1945.

DEPARTMENT OF THE TREASURY

The functions of the Bureau of Marine Inspection and Navigation were transferred from the Department of Commerce to the Coast Guard and the Bureau of Customs in 1942 by Executive order under the First War Powers Act. This arrangement has been proved successful by the experience of the past 4 years. Part I of the reorganization plan continues the arrangement on a permanent basis.

UNITED STATES COAST GUARD

The principal functions of the Bureau of Marine Inspection and Navigation were those of the inspection of vessels and their equipment, the licensing and certificating of officers and seamen, and related functions designed to safeguard the safety of life and property at sea. Thus these functions are related to the regular activities and general purposes of the Coast Guard. The Coast Guard administered them successfully during the tremendous expansion of wartime shipping, by virtue of improvements in organization and program, many of which ought to be continued.

The plan also transfers to the Coast Guard the functions of the collectors of customs relating to the award of numbers to undocumented vessels. These functions, too, were temporarily transferred to the Coast Guard in 1942.

BUREAU OF CUSTOMS

The plan transfers to the Commissioner of Customs the functions of the Bureau of Marine Inspection and Navigation and the Secretary of Commerce, relating to the documentation of vessels, measurement of vessels, administration of tonnage tax and tolls, entry and clearance of vessels and aircraft, regulation of coastwise trade and fisheries, recording of conveyances and mortgages of vessels, and protection of steerage passengers. These functions have always been performed at the ports by the customs service, although legal responsibility for their supervision was vested in the Bureau of Marine Inspection and Navigation and the Secretary of Commerce until transferred temporarily to the Commissioner of Customs under the wartime reorganization power.

The proposed transfer will permit more efficient administration by ending divided responsibility.

DEPARTMENT OF WAR AND DEPARTMENT OF THE NAVY

Functions With Respect to Certain Insane Persons

Prior to World War I practically all mental patients for whom the Federal Government was legally obligated to provide hospital care and treatment, including personnel of the armed forces, were hospitalized in St. Elizabeths Hospital, Washington, D. C. In addition, this hospital served as the mental hospital for the District of Columbia government. Following World War I, the responsibility for hospital care of mentally ill war veterans was assigned to the Veterans' Administration. Somewhat later, specialized hospital facilities were provided by the Bureau of Prisons of the Department of Justice to enable that agency to care for prisoners suffering from mental disorders.

With the growth in the population of the District of Columbia and the wartime expansion of the armed forces, the facilities of St. Elizabeths Hospital became inadequate. The War Department therefore established its own mental hospitals at the outset of World War II. Furthermore it became necessary a year ago for the Navy Department to discontinue the use of St. Elizabeths and to assume the responsibility for the care of its mental patients.

Since the return of the Coast Guard to the Treasury Department, the Public Health Service now provides care in its mental hospitals for personnel of the Coast Guard in accordance with the basic responsibility delegated to it in the Public Health Service Code enacted in 1944. The plan abolishes the functions of St. Elizabeths Hospital with respect to insane persons belonging to the Coast Guard which are provided for by section 4843 of the Revised Statutes [section 191 of Title 24].

Responsibility for the care of mental patients has been allocated on the basis of the four broad categories of beneficiaries, namely, (1) veterans, to be cared for by the Veterans' Administration; (2) military and naval personnel, to be cared for by the War and Navy Departments; (3) prisoners, for whom the Department of Justice will be responsible; and (4) other civilians, to be cared for by the Federal Security Agency. The reorganization plan, in order to carry out this policy, provides for the transfer or abolition of certain functions and legal responsibilities now resting with the Federal Security Administrator and Superintendent of St. Elizabeths Hospital.

NAVY DEPARTMENT

Hydrographic Office and Naval Observatory

The plan transfers the Hydrographic Office and the Naval Observatory from the Bureau of Naval Personnel to the Office of the Chief of Naval Operations. The plan would confirm and make permanent the action taken in 1942 by Executive Order No. 9126. Under the First War Powers Act.

The functions performed by both the Hydrographic Office and the Naval Observatory relate primarily to operational matters and thus are more appropriately placed in the Office of the Chief of Naval Operations than in the Bureau of Naval Personnel. This fact was recognized in the realinement of naval functions at the outbreak of the war. The plan merely confirms an organizational relationship which has existed successfully for the past 4 years.

Supply Department of the United States Marine Corps

The plan consolidates the Paymaster's Department and the Quartermaster's Department of the United States Marine Corps into a single Supply Department. This consolidation will establish in the Marine Corps an integrated supply organization which parallels that of the Navy Department's Bureau of Supplies and Accounts.

The consolidation will make possible a more efficient and more economical organization of the companion functions of supply and disbursement, eliminating the present handling of related items by two separate departments of the Corps.

DEPARTMENT OF THE INTERIOR

The Franklin D. Roosevelt Library at Hyde Park

At the present time, the National Park Service, the Public Buildings Administration, and the Archivist of the United States all perform "housekeeping" functions at the Franklin D. Roosevelt Library and home at Hyde Park. The plan unifies in the National Park Service responsibility for activities of this character at Hyde Park—that is, the maintenance and protection of buildings and grounds, the collection of fees, and the handling of traffic and visitors. Because of its wide experience in the administration of historic sites, the National Park Service is the logical agency to assume the combined functions.

Transfer of these functions does not affect the responsibility of the Archivist for the contents and professional services of the library proper. It also does not affect the present disposition of the receipts, which is provided by law.

Functions Relating to Mineral Deposits in Certain Lands

The plan transfers to the Department of the Interior jurisdiction over mineral deposits on lands held by the Department of Agriculture.

The Department of the Interior now administers the mining and mineral leasing laws on various areas of the public lands, including those national forests established on parts of the original public domain. The Department of Agriculture, on the other hand, has jurisdiction with respect to mineral deposits on (1) forest lands acquired under the Weeks Act, (2) lands acquired in connection with the rural rehabilitation program, and (3) lands acquired by the Department as a part of the Government's effort to retire submarginal lands.

Accordingly this reorganization plan provides that these mineral deposits on lands of the Department of Agriculture will be administered by the Department of the Interior, which already has the bulk of the Federal Government's mineral leasing program.

The plan further provides that the administration of mineral leasing on these lands under the jurisdiction of the Department of Agriculture will be carried on subject to limitations necessary to protect the surface uses for which these lands were primarily acquired.

Bureau of Land Management

The plan consolidates the General Land Office and the Grazing Service of the Department of the Interior into a Bureau of Land Management.

The General Land Office and the Grazing Service now divide responsibility for the major portion of the multiple-use federally owned lands now held by the Department of the Interior. The lands under jurisdiction of the two agencies are comparable in character and in use. In some functions the two agencies employ the same type of personnel and use the same techniques. Other functions are divided between the agencies, so that both are engaged in management of various aspects of the same land. Consolidating these two agencies will permit the development of uniform policies and the integration of two organizations whose responsibilities now overlap.

Integration of the activities of the two agencies will make possible greater utilization and thus more economic use of expert skills. The same practical experience embraced in range administration on public lands in grazing districts will be available for public lands outside the districts.

Utilization of lands within grazing districts for nongrazing purposes will be subject to only one classification examination, rather than dual examination as is now necessary. Economy will be possible in the construction of range improvements, wherever feasible, to serve lands both in and out of districts. Legal procedures, such as adjudication of issues relating to licenses and leases, hearings on appeal from administrative decisions, and the processing of trespass cases, will benefit from unified administration and handling.

In such activities as fire protection, soil and moisture conservation, management of public lands under agreement with other agencies (e.g., Bureau of Reclamation), range surveys, maintenance and improvement of stock driveways, and stabilization of range use on all public domain, the benefits of consolidation will become increasingly apparent. Further, records relating to grazing lands can be concentrated in fewer field offices and hence administered more effectively.

While the establishment of a new Bureau of Land Management under a Director involves the abolition of the Commissioner and Assistant Commissioners of the General Land Office, the Director and Assistant Directors of Grazing, the Registers of District Land Offices, and the United States Supervisor of Surveys, the statutory functions now discharged by these officers are in no way modified. This plan will place final responsibility for these functions in the Secretary of the Interior and make him responsible for their performance in coordination with the other land activities of his Department. Officers whose offices are specifically abolished, but whose experience will make them valuable to the Department, should be available for appointment in the new Bureau.

I have found and declare that by reason of the reorganization made by the plan the responsibilities and duties of the Bureau of Land Management are of such nature as to require the inclusion in the plan of provisions for the appointment and compensation of a Director, an Associate Director, and Assistant Directors.

DEPARTMENT OF AGRICULTURE

Functions of Certain Agencies of the Department of Agriculture

To enable the Department of Agriculture to meet its responsibilities for food production and distribution during the war, there was early and continuing coordination of its programs directly concerned with these phases of the food problem. Beginning with Executive Order No. 9069 of February 23, 1942, those programs and agencies dealing with food production and distribution were gradually consolidated by a series of Executive orders issued under the authority of the First War Powers Act. By Executive Order No. 9334 of April 19, 1943, they were all grouped into a War Food Administration, under a War Food Administrator.

When the fighting was drawing to a close and the emergency purposes of the War Food Administration had been largely accomplished, this Administration was terminated by Executive Order No. 9577 of June 29, 1945, and its functions and agencies were transferred back to the jurisdiction of the Secretary of Agriculture. Executive Order No. 9577 also authorized the Secretary of Agriculture to organize and administer the transferred functions and agencies in the manner which he deemed best.

Under this authority the Secretary established the Production and Marketing Administration in August 1945. Into this Administration he consolidated the functions of many of the production and marketing agencies which were transferred back from the War Food Administration. Included were the functions of the Agricultural Adjustment Administration and the Surplus Marketing Administration and the administration of the programs of the Federal Crop Insurance Corporation and the Commodity Credit Corporation.

The plan transfers these functions to the Secretary of Agriculture, in order to permit him to continue the consolidation already effected in the Production and Marketing Administration. This provision makes it possible to maintain the close coordination and integration of food-production and distribution programs, with the resulting benefits that were achieved during the war. It also provides the Secretary with the necessary flexibility to make adjustments in the coordination and administration of these programs to meet changing conditions and new problems, a flexibility which he particularly needs at this period of acute food shortages throughout the world.

DEPARTMENT OF COMMERCE

Certain Functions of National Bureau of Standards

The plan transfers the functions of two Divisions of the National Bureau of Standards in the Department of Commerce, namely, the Division of Simplified Trade Practices and the Division of Commercial Standards, to the Secretary of Commerce. The transfer will permit the Secretary to reassign these functions to the Office of Domestic Commerce, which is the focal point of the Department's general service functions for American business.

These two Divisions were established as a result of the standardization work initiated in World War I. Both Divisions have followed the same basic procedure of assisting the producers and the consumers of particular products to agree among themselves on certain standards or on a certain limited number of varieties. Each such voluntary agreement is then published by the National Bureau of Standards and, although not compulsory, has tended to become the generally accepted practice in the trade.

Standardization again proved to be an important device for accelerating production in World War II, and industry has shown renewed interest in continuing these wartime conservation and rationalization programs on a voluntary basis in the production of peacetime products.

The desirability of the proposed transfer was emphasized only a few months ago by the report of a committee of prominent businessmen appointed by the Secretary of Commerce to review the entire question of the Government's activities in this field. These studies indicate that two major benefits will result from the transfer.

First, the association of the two Divisions with the National Bureau of Standards has perhaps tended to give the impression in some quarters that voluntary standards and trade practices worked out by industry with the help of these two Divisions are in some sense Government standards which are enforced on the basis of scientific and objective tests. The transfer of these two Divisions to the Department proper would reduce any such misconceptions, and make it clear that these standards and simplified practices are voluntary industry agreements in the making of which the Government acts merely in an advisory capacity.

Second, the other general services of the Department to American business, such as marketing, management, and economic and statistical services, are now concentrated in the Office of Domestic Commerce. The association of these two Divisions with these other services to business will facilitate their work and enable them to make use of the wide industrial and business contacts of the Office of Domestic Commerce.

NATIONAL LABOR RELATIONS BOARD

Strike Ballots Under the War Labor Disputes Act

The plan abolishes the function of conducting strike ballots which was vested in the National Labor Relations Board by section 8 of the War Labor Disputes Act (57 Stat. 167, ch. 144). Experience indicates that such elections under the act do not serve to reduce the number of strikes and may even aggravate labor difficulties. The Congress has already forbidden the Board to expend any of its appropriations for the current fiscal year for this activity (First Deficiency Appropriation Act of 1946). I believe that the function should now be permanently abolished.

SMITHSONIAN INSTITUTION

Canal Zone Biological Area

The plan transfers responsibility for the Canal Zone Biological Area to the Smithsonian Institution. At present the Canal Zone Biological Area is an independent agency of the Government, having as its function the administration of Barro Colorado Island in Gatun Lake as a tropical wildlife preserve and research laboratory. The Board of Directors of this agency consists of the President of the National Academy of Sciences as Chairman, the Secretary of the Smithsonian Institution, three members of the Cabinet—the Secretaries of War, Interior, and Agriculture—and three biologists.

The transfer will locate this function with comparable and related functions already assigned to the Smithsonian Institution whose staff members have participated since the beginning in developing the island as a research center. It will reduce by one the number of Government agencies. It will relieve three Cabinet members of routine duties not important enough to warrant their personal attention.

Under its existing authority the Smithsonian Institution may constitute an advisory board of biologists and departmental representatives if it finds such action necessary.

UNITED STATES EMPLOYMENT SERVICE

Placement Functions Under Selective Training and Service Act of 1940

The plan transfers to the United States Employment Service the functions of the Selective Service System and its Director with respect to assisting ex-servicemen in obtaining new positions. These functions directly overlap the regular placement activities of the United States Employment Service, which is required to provide a special placement service for veterans both by its basic act and by the Servicemen's Readjustment Act of 1944. The transfer is in line with the policy of the Congress on the placement of veterans as most recently expressed in the 1944 act. The shift will prevent needless duplication of personnel and facilities and will assure the best service to veterans.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 16, 1946.

REORGANIZATION PLAN NO. 1 OF 1947

12 F.R. 4534, 61 Stat. 951

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 1, 1947, pursuant to the provisions of the Reorganization Act of 1945, approved December 20, 1945.

PART I. PRESIDENT AND DEPARTMENT OF JUSTICE

§ 101. FUNCTIONS OF THE ALIEN PROPERTY CUSTODIAN

(a) Except as provided by subsection (b) of this section, all functions vested by law in the Alien Property Custodian or the Office of Alien Property Custodian are transferred to the Attorney General and shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of Justice as he may designate.

(b) The functions vested by law in the Alien Property Custodian or the Office of Alien Property Custodian with respect to property or interests located in the Philippines or which were so located at the time of vesting in or transfer to an officer or agency of the United States under the Trading With the Energy Act, as amended [section 1 et seq. of Appendix to Title 50], are transferred to the President and shall be performed by him or, subject to his direction and control, by such officers and agencies as he may designate.

§ 102. APPROVAL OF AGRICULTURAL MARKETING ORDERS

The function of the President with respect to approving determinations of the Secretary of Agriculture in connection with agricultural marketing orders, under the Agricultural Marketing Agreement Act of 1937, as amended (section 608c(9) of Title 7), is abolished.

PART II. DEPARTMENT OF THE TREASURY

§ 201. CONTRACT SETTLEMENT FUNCTIONS

The functions of the Director of Contract Settlement and of the Office of Contract Settlement are transferred to the Secretary of the Treasury and shall be performed by him or, subject to his direction and control, by such officers and agencies of the Department of the Treasury as he may designate. The Contract Settlement Advisory Board created by section 5 of the Contract Settlement Act of 1944 (58 Stat. 649) [section 105 of Title 41] and the Appeal Board established under section 13(d) of that act are transferred to the Department of the Treasury: *Provided*, That the functions of the boards shall be performed by them, respectively, under such conditions and limitations as may now or hereafter be prescribed by law. The Office of Contract Settlement is abolished.

§ 202. NATIONAL PROHIBITION ACT FUNCTIONS

The functions of the Attorney General and of the Department of Justice with respect to (a) the determination of Internal Revenue taxes and penalties (exclusive of the determination of liability guaranteed by permit bonds) arising out of violations of the National Prohibition Act [see note to section 1 of Title 27] occurring prior to the repeal of the eighteenth amendment to the Constitution, and (b) the compromise, prior to reference to the Attorney General for suit, of liability for such taxes and penalties, are transferred to the Commissioner of Internal Revenue, Department of the Treasury: *Provided*, That any compromise of such liability shall be effected in accordance with the provisions of section 3761 of the Internal Revenue Code. All files and records of the Department of Justice used primarily in the administration of the functions transferred by the provisions of this section are hereby made available to the Commissioner of Internal Revenue for use in the administration of such functions.

PART III. DEPARTMENT OF AGRICULTURE

§ 301. AGRICULTURAL RESEARCH FUNCTIONS

The functions of the following agencies of the Department of Agriculture, namely, the Bureau of Animal Industry, the Bureau of Dairy Industry, the Bureau of Plant Industry, Soils, and Agricultural Engineering, the Bureau of Entomology and Plant Quarantine, the Bureau of Agricultural and Industrial Chemistry, the Bureau of Human Nutrition and Home Economics, the Office of Experiment Stations, and the Agricultural Research Center, together with the functions of the Agricultural Research Administrator, are transferred to the Secretary of Agriculture and shall be performed by the Secretary or, subject to his direction and control, by such officers and agencies of the Department of Agriculture as he may designate.

PART IV. FEDERAL DEPOSIT INSURANCE CORPORATION

§ 401. CREDIT UNION FUNCTIONS

The functions of the Farm Credit Administration and the Governor thereof under the Federal Credit Union Act, as amended, together with the functions of the Secretary of Agriculture with respect thereto, are transferred to the Federal Deposit Insurance Corporation.

PART V. WAR ASSETS ADMINISTRATION

[Secs. 501, 502. Repealed. June 30, 1949, ch. 288, title VI, § 602(a)(1), 63 Stat. 399, renumbered Sept. 5, 1950, ch. 849, § 6(a), (b), 64 Stat. 583.]

PART VI. GENERAL PROVISIONS

§ 601. TERMINATION OF FUNCTIONS

Nothing contained in this reorganization plan shall be deemed to extend the duration of any function beyond the time when it would otherwise expire as provided by law.

§ 602. TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred to the respective agencies in which functions are vested pursuant to the provisions of this plan, to be used, employed, and expended in connection with such functions, respectively, or in winding up the affairs of agencies abolished in connection with the transfer of such functions, (1) the records and property now being used or held in connection with such functions, (2) the personnel employed in connection with such functions, and (3) the unexpended balances of appropriations, allocations, or other funds available or to be made available for use in connection with such functions.

§ 603. EFFECTIVE DATE

The provisions of this plan shall take effect on July 1, 1947, unless a later date is required by the provisions of the Reorganization Act of 1945.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am transmitting herewith Reorganization Plan No. 1 of 1947. The provisions of this plan are designed to maintain organizational arrangements worked out under authority of title I of the First War Powers Act. The plan has a twofold objective: to provide for more orderly transition from war to peacetime operation and to supplement my previous actions looking toward the termination of wartime legislation.

The First War Powers Act provides that title I—

> shall remain in force during the continuance of the present war and for six months after the termination of the war, or until such earlier time as the Congress by concurrent resolution or the President may designate.

Upon the termination of this title all changes in the organization of activities and agencies effected under its authority expire and the functions revert to their previous locations unless otherwise provided by law.

Altogether nearly 135 Executive orders have been issued in whole or in part under title I of the First War Powers Act. The internal organization of the War and Navy Departments has been drastically overhauled under this authority. Most of the emergency agencies, which played so vital a role in the successful prosecution of the war, were based in whole or in part upon this title. Without the ability, which these provisions afforded, to adjust the machinery of government to changing needs, it would not have been possible to develop the effective, hard-hitting organization which produced victory. The organization of war activities had to be worked out step by step as the war program unfolded and experience pointed the way. That was inevitable. The problems and the functions to be performed were largely new. Conditions changed continually and often radically. Speed of action was essential. But with the aid of title I of the First War Powers Act, it was possible to gear the administrative machinery of the Government to handle the enormous load thrust upon it by the rapidly evolving war program.

Since VJ-day this same authority has been used extensively in demobilizing war agencies and reconverting the governmental structure to peacetime needs. This process has been largely completed. The bulk of temporary activities have ceased, and most of the continuing functions transferred during the war have already been placed in their appropriate peacetime locations.

The organizational adjustments which should be continued are essentially of two types: First, changes in the organization of permanent functions, which have demonstrated their advantage during the war years. Second, transfers of continuing activities which were vested by statute in temporary war agencies but have since been moved by Executive order upon the termination of these agencies.

In most cases the action necessary to maintain organizational gains made under title I of the First War Powers Act can best be taken by the simplified procedure afforded by the Reorganization Act of 1945, the first purpose of which was to facilitate the orderly transition from war to peace. All of the provisions of this plan represent definite improvements in administration. Several are essential steps in demobilizing the war effort. The arrangements they provide for have been reviewed by the Congress in connection with appropriation requests. Since the plan does not change existing organization, savings cannot be claimed for it. However, increased expense and disruption of operations would result if the present organization were terminated and the activities reverted to their former locations.

In addition to the matters dealt with in this reorganization plan and in Reorganization Plan No. 2 of 1947, there are several other changes in organization made under title I of the First War Powers Act on which action should be taken before the termination of the title. The proposed legislation for a National Defense Establishment provides for continuing the internal organizational arrangements made in the Army and Navy pursuant to the First War Powers Act. I have on several occasions recommended the creation of a single agency for the administration of housing programs. Since section 5(e) of the Reorganization Act of 1945 may cast some doubt on my authority to assign responsibility for the liquidation of the Smaller War Plants Corporation by reorganization plan, I recommend that the Reconstruction Finance Corporation be authorized by legislation to continue to liquidate the affairs relating to functions transferred to it from the Smaller War Plants Corporation.

It is imperative that title I of the First War Powers Act remain effective until all of these matters have been dealt with. An earlier termination of the title would destroy important advances in organization and impair the ability of the executive branch to administer effectively some of the major programs of the Government.

I have found, after investigation, that each reorganization contained in this plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1945. Each of these reorganizations is explained below.

FUNCTIONS OF THE ALIEN PROPERTY CUSTODIAN

The reorganization plan provides for the permanent location of the functions vested by statute in the Alien Property Custodian and the Office of Alien Property Custodian. In 1934 the functions of the Alien Property Custodian were transferred to the Department of Justice, where they remained until 1942. Because of the great volume of activity resulting from World War II, a separate Office of Alien Property Custodian was created by Executive Order No. 9095 of March 11, 1942. This Office was terminated by Executive Order No. 9788 of October 14, 1946, and the functions of the Office and of the Alien Property Custodian were transferred to the Attorney General except for those relating to Philippine property. The latter were transferred simultaneously to the Philippine Alien Property Administration established by Executive Order No. 9789.

While the Trading With the Enemy Act, as amended at the beginning of the war, authorized the President to designate the agency or person in which alien property should vest and to change such designations, subsequent legislation has lodged certain functions in the

Alien Property Custodian and the Office of Alien Property Custodian. Similarly, though the Philippine Property Act vested in the President the then existing alien property functions as to Philippine property, certain functions affecting such property have since been established which have been assigned by statute to the Alien Property Custodian.

In order to maintain the existing arrangements for the administration of alien property and to avoid the confusion which otherwise would occur on the termination of title I of the First War Powers Act, the reorganization plan transfers to the Attorney General all functions vested by law in the Alien Property Custodian and the Office of Alien Property Custodian except as to Philippine property. The functions relating to Philippine property are transferred to the President, to be performed by such officer or agency as he may designate, thus permitting the continued administration of these functions through the Philippine Alien Property Administration.

APPROVAL OF AGRICULTURAL MARKETING ORDERS

Section 8c of the Agricultural Marketing Agreements Act of 1937 provides that marketing orders of the Secretary of Agriculture must in certain cases be approved by the President before issuance. In order to relieve the President of an unnecessary burden, the responsibility for approval was delegated to the Economic Stabilization Director during the war, and was formally transferred to him by Executive Order No. 9705 of March 15, 1946. Since the Secretary of Agriculture is the principal adviser of the President in matters relating to agriculture, and since final authority has been assigned to the Secretary by law in many matters of equal or greater importance, the requirement of Presidential approval of individual marketing orders may well be discontinued. Accordingly, the plan abolishes the function of the President relative to the approval of such orders.

CONTRACT SETTLEMENT FUNCTIONS

The Office of Contract Settlement was established by law in 1944 and shortly thereafter was placed by statute in the Office of War Mobilization and Reconversion. The principal purposes of the Office of Contract Settlement have been to prescribe the policies, regulations, and procedures governing the settlement of war contracts, and to provide an appeal board to hear and decide appeals from the contracting agencies in the settlement of contracts. A remarkable record has been achieved for the rapid settlement of war contracts, but among those which remain are some of the largest and most complex. Considerable time may be required to complete these cases and dispose of the appeals.

Though the functions of the Office of Contract Settlement cannot yet be terminated, it is evident that they no longer warrant the maintenance of a separate office. For this reason Executive Order No. 9809 of December 12, 1946, transferred the functions of the Director of Contract Settlement to the Secretary of the Treasury and those of the Office of Contract Settlement to the Department of the Treasury. As the central fiscal agency of the executive branch the Treasury Department is clearly the logical organization to carry to conclusion the over-all activities of the contract settlement program. The plan continues the present arrangement and abolishes the Office of Contract Settlement, thereby avoiding its reestablishment as a separate agency on the termination of title I of the First War Powers Act.

NATIONAL PROHIBITION ACT FUNCTIONS

The act of May 27, 1930 (46 Stat. 427), imposed upon the Attorney General certain duties respecting administration and enforcement of the National Prohibition Act. By Executive Order No. 6639 of March 10, 1934, all of the powers and duties of the Attorney General respecting that act, except the power and authority to determine and to compromise liability for taxes and penalties, were transferred to the Commissioner of Internal Revenue. The excepted functions, however, were transferred subsequently to the Commissioner of Internal Revenue by Executive Order No. 9302 of February 9, 1943, issued under the authority of title I of the First War Powers Act, 1941.

Since the functions of determining taxes and penalties under various statutes and of compromise of liability therefor prior to reference to the Attorney General for suit are well-established functions of the Commissioner of Internal Revenue, this minor function under the National Prohibition Act is more appropriately placed in the Bureau of Internal Revenue than in the Department of Justice.

AGRICULTURAL RESEARCH FUNCTIONS

By Executive Order No. 9069 of February 23, 1942, six research bureaus, the Office of Experiment Stations, and the Agricultural Research Center were consolidated into an Agricultural Research Administration to be administered by an officer designated by the Secretary of Agriculture. The constituent bureaus and agencies of the Administration have, in practice, retained their separate identity. This consolidation and certain transfers of functions between the constituent bureaus and agencies have all been recognized and provided for in the subsequent appropriation acts passed by the Congress.

By the plan the functions of the eight research bureaus and agencies which are presently consolidated into the Agricultural Research Administration are transferred to the Secretary of Agriculture to be performed by him or under his direction and control by such officers or agencies of the Department of Agriculture as he may designate.

The benefits which have been derived from centralized review, coordination, and control of research projects and functions by the Agricultural Research Administrator have amply demonstrated the lasting value of this consolidation. By transferring the functions of the constituent bureaus and agencies to the Secretary of Agriculture, it will be possible to continue this consolidation and to make such further adjustments in the organization of agricultural research activities as future conditions may require. This assignment of functions to the Secretary is in accord with the sound and long-established practice of the Congress of vesting substantive functions in the Secretary of Agriculture rather than in subordinate officers or agencies of the Department.

CREDIT UNION FUNCTIONS

The plan makes permanent the transfer of the administration of Federal functions with respect to credit unions to the Federal Deposit Insurance Corporation. These functions, originally placed in the Farm Credit Administration, were transferred to the Federal Deposit Insurance Corporation by Executive Order No. 9148 of April 27, 1942. Most credit unions are predominantly urban institutions, and the credit-union program bears very little relation to the functions of the Farm Credit Administration. The supervision of credit unions fits in logically with the general bank supervisory functions of the Federal Deposit Insurance Corporation. The Federal Deposit Insurance Corporation since 1942 has successfully administered the credit-union program, and the supervision of credit-union examiners has been integrated into the field and departmental organization of the Corporation. In the interests of preserving an organizational arrangement which operates effectively and economically, the program should remain in its present location.

WAR ASSETS ADMINISTRATION

The present organization for the disposal of surplus property is the product of 2½ years of practical experience. Beginning with the Surplus Property Board in charge of general policy and a group of agencies designated by it to handle the disposal of particular types of property, the responsibility for most of the surplus disposal has gradually been drawn together in one agency—the War Assets Administration—headed by a single Administrator. Experience has demonstrated the desirability of centralized responsibility in administering this most difficult program.

The reorganization plan will continue the centralization of surplus disposal functions in a single agency headed by an Administrator. This is accomplished by transferring the functions, personnel, property, records, and funds of the War Assets Administration created by Executive order to the statutory Surplus Property Administration. In order to avoid confusion and to maintain the continuity of operations, the name of the Surplus Property Administration is changed to War Assets Administration.

Because the plan combines in one agency, not only the policy functions now vested by statute in the Surplus Property Administrator, but also the immense disposal operations now concentrated in the temporary War Assets Administration, I have found it necessary to provide in the plan for an Associate War Assets Administrator, also appointed by the President with the approval of the Senate. It is essential that there be an officer who can assist the Administrator in the general management of the agency and who can take over the direction of its operations in case of the absence or disability of the Administrator or of a vacancy in his office.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 1, 1947.

REORGANIZATION PLAN NO. 3 OF 1947

Eff. July 27, 1947, 12 F.R. 4981, 61 Stat. 954

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled May 27, 1947, pursuant to the provisions of the Reorganization Act of 1945, approved December 20, 1945.

HOUSING AND HOME FINANCE AGENCY

§ 1. HOUSING AND HOME FINANCE AGENCY

The Home Owners' Loan Corporation, the Federal Savings and Loan Insurance Corporation, the Federal Housing Administration, the United States Housing Authority, the Defense Homes Corporation, and the United States Housing Corporation, together with their respective functions, the functions of the Federal Home Loan Bank Board, and the other functions transferred by this plan, are consolidated, subject to the provisions of sections 2 to 5, inclusive, hereof, into an agency which shall be known as the Housing and Home Finance Agency. There shall be in said Agency constituent agencies which shall be known as the Home Loan Bank Board, the Federal Housing Administration, and the Public Housing Administration.

§ 2. HOME LOAN BANK BOARD

(a) The Home Loan Bank Board shall consist of three members appointed by the President by and with the advice and consent of the Senate. Not more than two members of the Board shall be members of the same political party. The President shall designate the members of the Board first appointed hereunder to serve for terms expiring, respectively, at the close of business on June 30, 1949, June 30, 1950, and June 30, 1951, and thereafter the term of each member shall be four years. Whenever a vacancy shall occur among the members the person appointed to fill such vacancy shall hold office for the unexpired portion of the term of the member whose place he is selected to fill. Each of the members of the Board shall receive compensation at the rate of $10,000 per annum.

(b) The President shall designate one of the members of the Home Loan Bank Board as Chairman of the Board. The Chairman shall (1) be the chief executive officer of the Board, (2) appoint and direct the personnel necessary for the performance of the functions of the Board or of the Chairman or of any agency under the Board, and (3) designate the order in which the other members of the Board shall, during the absence or disability of the Chairman, be Acting Chairman and perform the duties of the Chairman.

(c) Except as otherwise provided in subsection (b) of this section there are transferred to the Home Loan Bank Board the functions (1) of the Federal Home Loan Bank Board, (2) of the Board of Directors of the Home Owners' Loan Corporation, (3) of the Board of Trustees of the Federal Savings and Loan Insurance Corporation, (4) of any member or members of any of said Boards, and (5) with respect to the dissolution of the United States Housing Corporation.

§ 3. FEDERAL HOUSING ADMINISTRATION

The Federal Housing Administration shall be headed by a Federal Housing Commissioner who shall be appointed by the President, by and with the advice and consent of the Senate, and receive compensation at the rate of $10,000 per annum. There are transferred to said Commissioner the functions of the Federal Housing Administrator.

§ 4. PUBLIC HOUSING ADMINISTRATION

The Public Housing Administration shall be headed by a Public Housing Commissioner who shall be appointed by the President, by and with the advice and consent of the Senate, and receive compensation at the rate of $10,000 per annum. There are transferred to said Commissioner the functions—

(a) Of the Administrator of the United States Housing Authority (which agency shall hereafter be administered and known as the Public Housing Administration);

(b) Of the National Housing Agency with respect to non-farm housing projects and other properties remaining under its jurisdiction pursuant to section 2 (a) (3) of the Farmers' Home Administration Act of 1946 (Public Law 731, Seventy-ninth Congress, approved August 14, 1946); and

(c) With respect to the liquidation and dissolution of the Defense Homes Corporation.

§ 5. HOUSING AND HOME FINANCE ADMINISTRATOR

(a) The Housing and Home Finance Agency shall be headed by a Housing and Home Finance Administrator who shall be appointed by the President, by and with the advice and consent of the Senate, and shall receive compensation at the rate of $17,500 per annum. (As amended Oct. 15, 1949, ch. 695, § 3, 63 Stat. 880.)

(b) The Administrator shall be responsible for the general supervision and coordination of the functions of the constituent agencies of the Housing and Home Finance Agency and for such purpose there are transferred to said Administrator the functions of the Federal Loan Administrator and the Federal Works Administrator (1) with respect to the Federal Home Loan Bank Board, the Home Owners' Loan Corporation, the Federal Savings and Loan Insurance Corporation, the Federal Housing Administration, and the United States Housing Authority, and (2) with respect to the functions of said agencies.

(c) There are also transferred to the Administrator the functions—

(1) Of holding on behalf of the United States the capital stock of the Defense Homes Corporation;

(2) Under Titles I and III, and sections 401, 501, and 502, of the Act of October 14, 1940 (54 Stat. 1125), as amended [sections 1521—1524, 1541—1550, 1552, 1553, 1561, 1571 and 1572 of Title 42];

(3) Of the Departments of the Army and Navy with respect to national defense and war housing (except that located on military or naval posts, reservations, or bases) under the Act of September 9, 1940 (54 Stat. 872), as amended; and

(4) Of all agencies designated to provide temporary shelter in defense areas under the Acts of March 1, 1941, May 24, 1941, and December 17, 1941 (55 Stat. 14, 197, and 810), insofar as such functions relate to such temporary shelter.

§ 6. NATIONAL HOUSING COUNCIL

There shall be in the Housing and Home Finance Agency a National Housing Council composed of the Housing and Home Finance Administrator as Chairman, the Federal Housing Commissioner, the Public Housing Commissioner, the Chairman of the Home Loan Bank Board, the Administrator of Veterans Affairs or his designee, the Chairman of the Board of Directors of the Reconstruction Finance Corporation or his designee, and the Secretary of Agriculture or his designee. The National Housing Council shall serve as a medium for promoting, to the fullest extent practicable within revenues, the most effective use of the housing functions and activities administered within the Housing and Home Finance Agency and the other departments and agencies represented on said Council in the furtherance of the housing policies and objectives established by law, for facilitating consistency between such housing functions and activities and the general economic and fiscal policies of the Government, and for avoiding duplication or overlapping of such housing functions and activities.

§ 7. INTERIM APPOINTMENTS

Pending the initial appointment hereunder of any officer provided for by this Plan, the functions of such officer shall be performed temporarily by such officer of the existing National Housing Agency as the President shall designate.

§ 8. TRANSFERS OF PROPERTY, PERSONNEL, AND FUNDS

The assets, contracts, property, records, personnel, and unexpended balances of appropriations, authorizations, allocations, or other funds, held, employed, or available or to be made available in connection with functions transferred by this Plan are hereby transferred with such transferred functions, respectively.

§ 9. ABOLITIONS

The Federal Home Loan Bank Board, the Board of Directors of the Home Owners' Loan Corporation, and the Board of Trustees of the Federal Savings and Loan Insurance Corporation, together with the offices for the members of said boards, the office of Federal Housing Administrator, and the office of Administrator of the United States Housing Authority, are abolished.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am transmitting herewith Reorganization Plan No. 3 of 1947, prepared in accordance with the Reorganization Act of 1945. This plan deals solely with housing. It simplifies, and increases the efficiency of, the administrative organization of permanent housing functions and provides for the administration of certain emergency housing activities pending their liquidation. I have found, after investigation, that each reorganization contained in this plan is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1945.

The provision of adequate housing will remain a major national objective throughout the next decade. The primary responsibility for meeting housing needs rests, and must continue to rest, with private industry, as I have stated on other occasions. The Federal Government, however, has an important role to play in stimulating and facilitating home construction.

Over the years the Congress has provided for a number of permanent housing programs, each involving a special approach to the basic objective of more adequate housing for our citizens. The Congress first enacted a series of measures to facilitate home construction and home ownership by strengthening the savings and loan type of home-financing institution. These measures established a credit reserve system for such agencies, authorized the chartering of Federal savings and loan associations to provide more adequate home financing facilities, and provided for the insurance of investments in savings and loan institutions in order to attract savings into this field. The Congress also created a system for the insurance of home loans and mortgages to stimulate the flow of capital into home-mortgage lending and thereby facilitate home ownership and improvement and increase home construction. These measures were supplemented by legislation extending financial assistance to local communities for the clearance of slums and the provision of decent housing for families of low income who otherwise would be forced to live in the slums. It is significant that these programs were first established, and have been continued, by the Congress because of their special contributions to home construction and improvement.

In my message of January 6 on the state of the Union, I recommended legislation establishing certain additional programs to help to alleviate the housing shortage and achieve our national objective of a decent home and a suitable living environment for every American family. No lesser objective is commensurate with the productive capacity and resources of the country or with the dignity which a true democracy accords the individual citizen. The Congress is now considering measures authorizing these programs. I again recommend the early enactment of this legislation.

But whatever may be the permanent housing functions of the Government, whether they be confined to the existing programs or supplemented as the Congress may determine, they are inevitably interrelated. They require coordination and supervision so that each will render its full contribution without conflict with the performance of other housing functions.

The Government, however, lacks an effective permanent organization to coordinate and supervise the administration of its principal housing programs. These programs and the machinery for their administration were established piecemeal over a period of years. The present consolidation of housing agencies and functions in the National Housing Agency is only temporary. After the termination of title I of the First War Powers Act this agency will dissolve and the agencies and functions now administered in it will revert to their former locations in the Government. When this occurs, the housing programs of the Government will be scattered among some 13 agencies in 7 departments and independent establishments.

I need hardly point out that such a scattering of these interrelated functions would not only be inefficient and wasteful but also would seriously impair their usefulness. It would leave the Government without effective machinery for the coordination and supervision of its housing activities and would thrust upon the Chief Executive an impossible burden of administrative supervision.

The grouping of housing functions in one establishment is essential to assure that the housing policies established by the Congress will be carried out with consistency of purpose and a minimum of friction, duplication, and overlapping. A single establishment will unquestionably make for greater efficiency and economy. Moreover, it will simplify the task of the Congress and the Chief Executive by enabling them to deal with one official and hold one person responsible for the general supervision of housing functions, whereas otherwise they will be forced to deal with a number of uncoordinated officers and agencies.

It is vital that a sound permanent organization of housing activities be established at the earliest possible date in order to insure that housing functions will not be scattered among numerous agencies, with consequent confusion and disruption. To avoid this danger, and to accomplish the needed changes promptly, it is desirable to employ a reorganization plan under the Reorganization Act of 1945. No other area of Federal activity affords greater opportunity than housing for accomplishing the objectives of the Reorganization Act to group, consolidate, and coordinate functions, reduce the number of agencies, and promote efficiency and economy; and in no other area could the application of the Reorganization Act be more appropriate and necessary.

In brief, this reorganization plan groups nearly all of the permanent housing agencies and functions of the Government, and the remaining emergency housing activities, in a Housing and Home Finance Agency, with the following constituent operating agencies: (*a*) A Home Loan Bank Board to administer the Federal Savings and Loan Insurance Corporation, the Home Owners' Loan Corporation, and the functions of the Federal Home Loan Bank Board and its members; (*b*) a Federal Housing Administration with the same functions as now provided by law for that agency; and (*c*) a Public Housing Administration to take over the functions of the United States Housing Authority and certain remaining emergency housing activities pending the completion of their liquidation. Each constituent agency will possess its individual identity and be responsible for the operation of its program.

By reason of the reorganizations made by the plan, I have found it necessary to include therein provisions for the appointment of (1) an Administrator to head the Housing and Home Finance Agency, (2) the three members of the Home Loan Bank Board, and (3) two Commissioners to head the Federal Housing Administration and the Public Housing Administration, respectively. Each of these officers is to be appointed by the President by and with the advice and consent of the Senate.

The plan places in the Housing and Home Finance Administrator the functions heretofore vested in the Federal Loan Administrator and the Federal Works Administrator with respect to the housing agencies and functions formerly administered within the Federal Loan and Federal Works Agencies, together with supervision and direction of certain emergency housing activities for the remainder of their existence.

Under the plan the Home Loan Bank Board and the Federal Housing Administration will have the same status in, and relation to, the Housing and Home Finance Agency and the Housing and Home Finance Administrator as the Federal Home Loan Bank Board, and its related agencies, and the Federal Housing Administration formerly had to the Federal Loan Agency and the Federal Loan Administrator. Similarly, the Public Housing Administration will have the same status in, and relation to, the Housing and Home Finance Agency and the Administrator as the United States Housing Authority formerly had to the Federal Works Agency and the Federal Works Administrator.

Since there are a few housing activities which it is not feasible to place within the Housing and Home Finance Agency because they form integral parts of other broad programs or because of specific limitations in the Reorganization Act of 1945, the plan also created a National Housing Council on which the Housing and Home Finance Agency and its constituent agencies, and the other departments and agencies having important housing functions, are represented. In this way the plan provides machinery for promoting the most effective use of all the housing functions of the Government, for obtaining consistency between these functions and the general economic and fiscal policies of the Government, and for avoiding duplication and overlapping of activities.

To avoid a hiatus in the administration of housing functions, pending the confirmation by the Senate of the new officers provided for by the plan, it permits the designation by the President of appropriate existing housing officials to perform temporarily the functions of these officers. This period should be brief, as I shall promptly submit nominations for the permanent officers.

Under the limitations contained in the Reorganization Act of 1945, the compensation of the Housing and Home Finance Administrator and the other officers provided for by the plan, cannot be fixed at a rate in excess of $10,000 per annum. Both the temporary National Housing Administrator, provided for by Executive Order No. 9070 and the Federal Housing Administrator, have received salaries of $12,000 a year. I do not consider the salary of $10,000 provided in the plan as compensation commensurate with the responsibilities of the Administrator, the members of the Home Loan Bank Board, and the Commissioners of the other constituent agencies, or consistent with a salary scale which must be paid if the Government is to attract and retain public servants of the requisite caliber. Accordingly, I recommend that the Congress act to increase the salary of the Housing and Home Finance Administrator to $15,000 per annum, and to increase the salaries of the members of the Home Loan Bank Board and the two Commissioners provided for by this plan to $12,000 per annum.

The essential and important difference between the organization established by the plan and the prewar arrangement, to which housing agencies and functions would otherwise automatically revert on the termination of title I of the First War Powers Act, is that under the old arrangement these agencies and functions were scattered among many different establishments primarily dealing with matters other than housing, whereas under the plan the major permanent housing programs are placed in a single establishment concerned exclusively with housing. Thus, the plan effectuates the basic objective enunciated by the Congress in the Reorganization Act of 1945 of grouping agencies and functions by major purpose, and provides the necessary framework for a more effective administration of Federal housing activities in the postwar period.

HARRY S. TRUMAN.

THE WHITE HOUSE, *May 27, 1947.*

REORGANIZATION PLAN NO. 2 OF 1949

Eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1065

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 20, 1949, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

DEPARTMENT OF LABOR

§ 1. BUREAU OF EMPLOYMENT SECURITY

The Bureau of Employment Security of the Federal Security Agency, including the United States Employment Service and the Unemployment Insurance Service, together with the functions thereof, is transferred as an organizational entity to the Department of Labor. The functions of the Federal Security Administrator with respect to employment services, unemployment compensation, and the Bureau of Employment Security, together with his functions under the Federal Unemployment Tax Act (as amended, and as affected by the provisions of Reorganization Plan No. 2 of 1946, 60 Stat. 1095, 26 U.S.C. 1600-11 [now covered by sections 3301-3309 of Title 26]), are transferred to the Secretary of Labor. The functions transferred by the provisions of this section shall be performed by the Secretary of Labor or, subject to his direction and control, by such officers, agencies, and employees of the Department of Labor as he shall designate.

§ 2. VETERANS' PLACEMENT SERVICE BOARD

The functions of the Veterans' Placement Service Board under title IV of the Servicemen's Readjustment Act of 1944 (58 Stat. 284, as amended; 38 U.S.C. 695—695f [see section 1501 et seq. of Title 38]) are transferred to and shall be performed by the Secretary of Labor. The functions of the Chairman of the said Veterans' Placement Service Board are transferred to the Secretary of Labor and shall be performed by the Secretary or, subject to his direction and control, by the Chief of the Veterans' Employment Service. The Veterans' Placement Service Board is abolished.

§ 3. FEDERAL ADVISORY COUNCIL

The Federal Advisory Council established pursuant to section 11(a) of the Act of June 6, 1933 (48 Stat. 116, as amended, 29 U.S.C. 49j(a)), is hereby transferred to the Department of Labor and shall, in addition to its duties under the aforesaid Act, advise the Secretary of Labor and the Director of the Bureau of Employment Security with respect to the administration and coordination of the functions transferred by the provisions of this reorganization plan.

§ 4. PERSONNEL, RECORDS, PROPERTY, AND FUNDS

There are transferred to the Department of Labor, for use in connection with the functions transferred by the provisions of this reorganization plan, the personnel, property, records and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Bureau of Employment Security, together with so much as the Director of the Bureau of the Budget shall determine of other personnel, property, records and unexpended balances of appropriations, allocations, and funds (available or to be made available) of the Federal Security Agency which relate to functions transferred by the provisions of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1949, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan transfers the Bureau of Employment Security, now in the Federal Security Agency, to the Department of Labor and vests in the Secretary of Labor the functions of the Federal Security Administrator with respect to employment services and unemployment compensation, the latter of which is now more commonly referred to as unemployment insurance. The plan also transfers to the Secretary of Labor the functions of the Veterans' Placement Service Board and of its Chairman and abolishes that Board. These changes are in general accord with recommendations made by the Commission on Organization of the Executive Branch of the Government.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1949 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of said act. The primary benefits from these reorganizations will take the form of improvements in administration and service. It is probable that a significant reduction in expenditures will result from the taking effect of the plan as compared with the current estimates and work-load assumptions contained in the 1950 budget as amended, but an itemization of such savings is not possible in advance of the transfer.

One of the major needs of the executive branch is a sound and effective organization of labor functions. More than 35 years ago the Federal Government's labor functions were brought together in the Department of Labor. In recent years, however, the tendency has been to disperse such functions throughout the Government. New labor programs have been placed outside of the Department and some of its most basic functions have been transferred from the Department to other agencies.

In my judgment, this course has been fundamentally unsound and should be reversed. The labor programs of the Federal Government constitute a family of interrelated functions requiring generally similar professional training and experience, involving numerous overlapping problems, and calling for strong, unified leadership. Together they form one of the most important areas of Federal activity. It is imperative that the Labor Department be strengthened and restored to its original position as the central agency of the Government for dealing with labor problems.

BUREAU OF EMPLOYMENT SECURITY

One of the most essential steps in improving the organization of labor functions is the transfer of the Bureau of Employment Security to the Department of Labor. This Bureau administers the activities of the Federal Government with respect to employment services and unemployment insurance. These activities mainly involve the review and apportionment of grants-in-aid, approval of State plans and grants, the conduct of research and developmental activities, and the provision of advice and assistance to the State agencies which actually conduct the services.

Public employment services and unemployment insurance are companion programs inextricably interrelated both in purpose and operation. The first assists workers in finding jobs and employers in obtaining workers; the second provides cash benefits for the support of workers and their families when suitable jobs cannot be obtained. Thus, each complements the other. At the local operating level the two programs are almost invariably carried on in the same unit—the local employment office. At the State level they are administered by the same agency in nearly every State. As a result, an unusually high degree of coordination at the Federal level is essential.

There can be no question as to the basic consideration which must govern the administration of both of these programs. From the standpoint of all interested parties—the worker, the employer, and the public—the primary concern is employment. Essential as they are, unemployment benefits at a fraction of regular wages are a poor substitute for the earnings from a steady job. In the administration of these programs, therefore, primary attention must be focused on achieving the maximum effectiveness of the employment services. On them depend the prosperity and well-being of the worker and the extent of the unemployment-compensation burden on the employer and the public.

I have long been convinced that the Department of Labor is the agency which can contribute most to the development of sound and efficient employment service. It has the understanding of employment problems and of the operation of the labor market which is essential in this field. It possesses the necessary specialists and the wealth of information on occupations, employment trends, wage rates, working conditions, labor legislation and other matters essential to employment counseling and placement.

Close working relations between the United States Employment Service and most of the agencies of the Labor Department are vital to the success of both. The Bureau of Labor Statistics has a fund of information on employment and occupations which is basic to the planning and operation of the Service. The Women's Bureau and the Child Labor Branch of the Wage and Hour Division afford expert advice on employment problems relating to women and adolescents. The Bureau of Labor Standards can assist the Service on questions of working conditions and other labor standards, and the Bureau of Apprenticeship on occupational-training problems. At the same time the various agencies of the Labor Department need the detailed current information on labor problems and the condition of the labor market which the United States Employment Service possesses.

Experience has demonstrated that unemployment insurance must be administered in close relationship with employment service and other employment programs. In many of our industrial States, and in most foreign countries, unemployment insurance is administered by the agency responsible for labor functions. Furthermore, the unemployment-insurance system has a vital stake in the effectiveness of the program for employment services, for what benefits the employment service also benefits the unemployment-insurance program.

The transfer of the Bureau of Employment Security, including the United States Employment Service and the Unemployment Insurance Service, together with the functions thereof, will give assurance that primary emphasis will be placed on the improvement of the employment services and that maximum effort will be made to provide jobs in lieu of cash benefits.

The plan also transfers to the Department of Labor the Federal Advisory Council created by the act establishing the United States Employment Service. This Council consists of outstanding representatives of labor, management, and the public who are especially familiar with employment problems.

VETERANS' PLACEMENT SERVICE BOARD

Although the Veterans' Employment Service operates through the regular employment office system, its policies are determined by the Veterans' Placement Service Board created by the Servicemen's Readjustment Act of 1944. This Board consists of the heads of three Federal agencies, only one of which administers employment services. Furthermore, the full-time director of the Service is appointed by the Chairman of this Board, who is not otherwise engaged in employment-service activity, rather than by the head of the agency within which the service is administered. Such an arrangement is cumbersome and results in an undue division of authority and responsibility.

In order to simplify the administration of the Veterans' Employment Service and assure the fullest cooperation between it and the general employment service, the plan eliminates the Veterans' Placement Service Board and transfers its functions and those of its Chairman to the Secretary of Labor. By thus concentrating responsibility for the success of the Service, the plan will make for better service to the veteran seeking employment or vocational counseling.

This plan is a major step in the rebuilding and strengthening of the Department of Labor, which I am convinced is essential to the sound and efficient organization of the executive branch of the Government.

HARRY S. TRUMAN.

THE WHITE HOUSE, June 20, 1949.

REORGANIZATION PLAN NO. 3 OF 1949

Eff. Aug. 20, 1949, 14 F.R. 5225, 63 Stat. 1066

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 20, 1949, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

POST OFFICE DEPARTMENT

§ 1. FUNCTIONS OF THE POSTMASTER GENERAL

(a) There are hereby transferred to the Postmaster General the functions of all subordinate officers and agencies of the Post Office Department, including the functions of each Assistant Postmaster General, the Purchasing Agent for the Post Office Department, the Comptroller, and the Bureau of Accounts.

(b) The Postmaster General is hereby authorized to delegate to any officer, employee, or agency of the Post Office Department designated by him such of his functions as he deems appropriate.

§ 2. DEPUTY POSTMASTER GENERAL

There shall be in the Post Office Department a Deputy Postmaster General, who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such duties as the Postmaster General may designate, and shall receive compensation at the rate of $17,500 per annum or such other compensation as may be provided by law for the under secretaries of executive departments after the date of transmittal of this reorganization plan to the Congress. (As amended Oct. 15, 1949, ch. 695, § 3, 63 Stat. 880).

§ 3. ASSISTANT POSTMASTERS GENERAL

There shall be in the Post Office Department four Assistant Postmasters General, who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such duties as the Postmaster General may designate, and shall receive compensation at the rate of $15,000 per annum or such other compensation as may be provided by law for the assistant secretaries of executive departments after the date of transmittal of this reorganization plan to the Congress. (As amended Oct. 15, 1949, ch. 695, § 5(a), 63 Stat. 880).

§ 4. ADVISORY BOARD

There is hereby established an Advisory Board for the Post Office Department of which the Postmaster General shall be chairman and the Deputy Postmaster General the vice chairman. The Board shall have seven additional members, representative of the public, who shall be appointed by the President by and with the advice and consent of the Senate. The members so appointed shall each receive compensation of $50 per diem when engaged in duties as members of the Board (including travel time to and from their homes or regular places of business) and reasonable subsistence and travel expense as determined by the Postmaster General. The Board shall meet quarterly at the seat of the government in the District of Columbia, or at such other time and place as the Postmaster General shall determine for the purpose of considering methods and policies for the improvement of the postal service, and shall advise and make recommendations to the Postmaster General with respect to such methods and policies.

§ 5. AGENCIES ABOLISHED

(a) There are hereby abolished the Bureau of Accounts in the Post Office Department (including the office of Comptroller) and the office of Purchasing Agent for the Post Office Department.

(b) The offices of First Assistant Postmaster General, Second Assistant Postmaster General, Third Assistant Postmaster General, and Fourth Assistant Postmaster General (5 U.S.C. 363) are hereby abolished; but the incumbents thereof immediately prior to the taking of effect of the provisions of this reorganization plan shall without reappointment be the first Assistant Postmasters General in office under the provisions of section 3 hereof.

§ 6. EMPLOYEES, RECORDS, PROPERTY, AND FUNDS

The employees now being employed, and the records and property now being used or held, in connection with any functions transferred by the provisions of this reorganization plan are hereby transferred to such agencies of the Post Office Department as the Postmaster General shall designate. The unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions shall remain so available.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1949, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan constitutes an important first step in strengthening the organization of the Post Office Department.

One of the prime essentials of good departmental administration is authority from the Congress to a department head to organize and control his department. The Commission on Organization of the executive branch of the Government emphasized in its first and subsequent reports that separate authorities to subordinates should be eliminated. The plan gives the Postmaster General the necessary authority to organize and control his Department by transferring to him the functions of all subordinate officers and agencies of the Post Office Department, including the functions of each Assistant Postmaster General, the Purchasing Agent, the Comptroller, and the Bureau of Accounts. The Postmaster General is authorized to delegate to subordinates designated by him such of his functions as he may deem appropriate.

The Postmaster General is responsible for the management of one of the world's largest businesses. Like the head of any large business, the Postmaster General should be given adequate top-level assistance in carrying on the operations of the Department so that he may have time to devote to matters of departmental and public policy. In order to provide needed assistance to the Postmaster General, the plan establishes the positions of Deputy Postmaster General, and four Assistant Postmasters General, comparable to the positions of Under Secretary and Assistant Secretaries in other departments.

The plan also establishes an Advisory Board for the Post Office Department, composed of the Postmaster General, the Deputy Postmaster General, and seven other members representing the public who shall be appointed by the President by and with the advice and consent of the Senate. The Advisory Board will make available to the Postmaster General the advice of outstanding private citizens and will afford a useful channel for the interchange of views between postal officials and the public concerning the operations of the postal service.

I have found after investigation that each reorganization contained in the plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949. I have also found and hereby declare that by reason of the reorganization made by this plan, it is necessary to include in the plan provisions for the appointment and compensation of the Deputy Postmaster General, four Assistant Postmasters General, and members of the Advisory Board for the Post Office Department. The plan abolishes the Bureau of Accounts of the Post Office Department and the offices of Comptroller, Purchasing Agent, First, Second, Third, and Fourth Assistant Postmasters General.

This plan carries into effect those of the recommendations of the Commission on Organization of the Executive Branch of the Government respecting the Post Office Department which can be accomplished under the provisions of the Reorganization Act. I am also transmitting to the Congress recommendations for legislation which will implement other recommendations of the Commission and place the operations of the Post Office Department on a more businesslike basis.

The primary result of this reorganization plan will be more effective administration. Although a substantial reduction in expenditures will not be brought about by the plan alone, major economies can be achieved over a period of time as a result of this plan and the enactment of the postal legislation which I am recommending to the Congress.

HARRY S. TRUMAN.

THE WHITE HOUSE, June 20, 1949.

REORGANIZATION PLAN NO. 4 OF 1949

Eff. Aug. 20, 1949, 14 F.R. 5227, 63 Stat. 1067

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 20, 1949, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

EXECUTIVE OFFICE OF THE PRESIDENT

The National Security Council and the National Security Resources Board, together with their respective functions, records, property, personnel, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), are hereby transferred to the Executive Office of the President.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1949, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan transfers the National Security Council and the National Security Resources Board to the Executive Office of the President. After investigation I have found, and I hereby declare, that each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

The growth of the executive branch and the increasingly complex nature of the problems with which it must deal have greatly intensified the necessity of strong and well-coordinated staff facilities to enable the President to meet his responsibilities for the effective administration of the executive branch of the Government. Ten years ago several of the staff agencies of the executive branch were brought together in the Executive Office of the President under the immediate direction of the President. The wisdom of this step has been demonstrated by greatly improved staff assistance to the President, which has contributed importantly to the management of the Government during the trying years of war and of postwar adjustment.

Since the creation of the Executive Office of the President, however, the Congress has further recognized the need for more adequate central staff and created two new important staff agencies to assist the President—the National Security Council and the National Security Resources Board. The primary function of the first of these agencies, as defined by statute, is—

> to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security.

The function of the second is—

> to advise the President concerning the coordination of military, industrial, and civilian mobilization.

Within their respective fields these agencies assist the President in developing plans and policies which extend beyond the responsibility of any single department of the Government. In this they play a role similar in character to that of the various units of the Executive Office of the President. In fact, many of the problems with which they deal require close collaboration with the agencies of the Executive Office.

Since the principal purpose of the National Security Council and the National Security Resources Board is to advise and assist the President and their work needs to be coordinated to the fullest degree with that of other staff arms of the President, such as the Bureau of the Budget and the Council of Economic Advisers, it is highly desirable that they be incorporated in the Executive Office of the President. The importance of this transfer was recognized by the Commission on Organization of the Executive Branch of the Government, which specifically recommended such a change as one of the essential steps in strengthening the staff facilities of the President and improving the over-all management of the executive branch.

Because of the necessity of coordination with other staff agencies, the National Security Council and the National Security Resources Board are physically located with the Executive Office of the President and I have taken steps to assure close working relations between them and the agencies of the Executive Office. This plan, therefore, will bring their legal status into accord with existing administrative practice. It is not probable that the reorganizations included in the plan will immediately result in reduced expenditures. They will, however, provide a firm foundation for maintaining and furthering the efficient administrative relationships already established, and for assuring that we have provided permanent arrangements vitally necessary to the national security.

HARRY S. TRUMAN.

THE WHITE HOUSE, June 20, 1949.

REORGANIZATION PLAN NO. 5 OF 1949

Reorg. Plan No. 5 of 1949, 14 F.R. 5227, 63 Stat. 1067, which related to the Civil Service Commission, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

REORGANIZATION PLAN NO. 6 OF 1949

Eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1069

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 20, 1949, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

UNITED STATES MARITIME COMMISSION

§ 1. ADMINISTRATION OF FUNCTIONS OF COMMISSION

The Chairman of the United States Maritime Commission shall be the chief executive and administrative officer of the United States Maritime Commission. In executing and administering on behalf of the Commission its functions (exclusive of functions transferred by the provisions of section 2 of this reorganization plan) the Chairman shall be governed by the policies, regulatory decisions, findings, and determinations of the Commission.

§ 2. TRANSFER OF FUNCTIONS

There are hereby transferred from the United States Maritime Commission to the Chairman of the Commission the functions of the Commission with respect to (1) the appointment and supervision of all personnel employed under the Commission, (2) the distribution of business among such personnel and among organizational units of the Commission, and (3) the use and expenditure of funds for administrative purposes: *Provided*, That the provisions of this section do not extend to personnel employed regularly and full time in the offices of members of the Commission other than the Chairman: *Provided further*, That the heads of the major administrative units shall be appointed by the Chairman only after consultation with the other members of the Commission.

§ 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

The functions of the Chairman under the provisions of this reorganization plan shall be performed by him or, subject to his supervision and direction, by such officers and employees under his jurisdiction as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 6 of 1949, prepared in accordance with the Reorganization Act of 1949. This plan is designed to strengthen the administration of the United States Maritime Commission by making the Chairman and the chief executive and administrative officer of the Commission and vesting in him responsibility for the appointment of its personnel and the supervision and direction of their activities. After investigation, I have found and hereby declare that each reorganization included in this plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

Unlike other major regulatory commissions, the Maritime Commission is responsible not only for the performance of important regulatory functions but also for the administration of large and complex operating and promotional programs. Whereas the budgets of most regulatory agencies amount to only a few million dollars annually, the expenditures of the Maritime Commission exceed $130,000,000 a year. As a result of the war the Commission is the owner of a fleet of over 2,300 ships, aggregating more than 23,000,000 dead-weight tons.

While it is the policy of the Government, as set forth by the Merchant Marine Act of 1936 and the Merchant Ship Sales Act of 1946, to develop and maintain an adequate and effective merchant marine under private ownership, the Commission is still confronted with the necessity of carrying on substantial programs for the charter and sale of Government-owned vessels and with the continuing task of maintaining the reserve merchant fleet.

Apart from its functions with respect to the war-built fleet, the accomplishment of the Government's permanent objective with respect to the development of the American merchant marine inevitably involves the Commission to a wide variety of activities. Among these are the regulation of rates and competitive practices of water carriers, the determination of essential trade routes and services, the award of subsidies to offset differences between American and foreign costs, the design and construction of ships, the inspection of subsidized vessels, and the training of seamen.

In the last 2 years the operation of the Maritime Commission has been subjected to independent examination by three bodies—the President's Advisory Committee on the Merchant Marine, the Senate Committee on Expenditures in the Executive Departments, and the Commission on Organization of the Executive Branch of the Government. All of these studies have pointed to difficulties in the conduct of the Commission's business and the necessity of improved organization to strengthen the administration of the agencies. The remedies proposed have differed in some respects, but all the studies have emphasized the need of concentrating in a single official the management of a large part of the agency's work.

During the war such a concentration was temporarily accomplished by Executive order under the authority of the First War Powers Act. In effect, the Chairman of the Commission, as War Shipping Administrator, was made directly responsible for the administration of several major operating programs of the Commission. This arrangement proved its value under the stress of war. About a year after the end of the fighting, however, it was terminated and the organization reverted to the prewar pattern.

As a result of postwar experience, the Commission appointed a general manager in 1948. While this has brought considerable improvement, it has not extricated the Commission from administration to the degree which is desirable.

After careful consideration of the problems involved in improving the operation of the Maritime Commission, I have concluded that the proper action at this time is to concentrate in the Chairman the responsibility for the internal administration of the agency. This is achieved by the proposed reorganization plan by transferring to the Chairman the appointment of the personnel of the agency, except for the immediate assistants of the Commissioners, and the supervision and direction of their work. This is substantially the arrangement recommended for regulatory commissions by the Commission on Organization of the Executive Branch of the Government.

Such a plan of organization has many advantages. It leaves in the Commission as a body the performance of regulatory functions, the determination of subsidies, and the determination of major policies. Thus, it utilizes the Commission for the type of work for which such a body is best adapted. At the same time the plan places under a single official the day-to-day direction of the work of the staff within the policies and determinations adopted by the Commission in the exercise of its functions. This will provide more businesslike administration and help to overcome the delays, backlogs, and operating difficulties which have hampered the agency. At the same time by freeing the members of the Commission of much detail, the plan will enable them to concentrate on major questions of policy and program and thereby will obtain earlier and better considered resolution of the basic problems of the agency.

Though the taking effect of this plan in itself may not result in substantial immediate economies, it is probable that the improved organizational arrangements will bring about, over a period of time, improved operations and substantially reduced expenditures. An itemization of these reductions, however, in advance if actual experience under the plan is not practicable.

I am convinced that this reorganization plan will contribute importantly to the more businesslike and efficient administration of the programs of the Maritime Commission.

HARRY S. TRUMAN.

THE WHITE HOUSE, June 20, 1949.

REORGANIZATION PLAN NO. 7 OF 1949

Eff. Aug. 20, 1949, 14 F.R. 5228, 63 Stat. 1070

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 20, 1949, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

PUBLIC ROADS ADMINISTRATION

§ 1. TRANSFER OF PUBLIC ROADS ADMINISTRATION

The Public Roads Administration, together with its functions, including the functions of the Commissioner of Public Roads, is hereby transferred to the Department of Commerce and shall be administered by the Commissioner of Public Roads subject to the direction and control of the Secretary of Commerce.

§ 2. TRANSFER OF CERTAIN FUNCTIONS OF FEDERAL WORKS ADMINISTRATOR

All functions of the Federal Works Administrator with respect to the agency and functions transferred by the provisions of section 1 hereof are hereby transferred to the Secretary of Commerce and shall be performed by the Secretary or, subject to his direction and control, by such officers, employees, and agencies of the Department of Commerce as the Secretary shall designate.

§ 3. RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred to the Department of Commerce, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, together with the Commissioner of Public Roads, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

§ 4. EFFECT OF REORGANIZATION PLAN

The provisions of this reorganization plan shall become effective notwithstanding the status of the Public Roads Administration within the Federal Works Agency or within any other agency immediately prior to the effective date of this reorganization plan. (As amended June 30, 1949, ch. 288, title I, § 103, 63 Stat. 380. See section 753 of Title 40).

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 7 of 1949, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan transfers the Public Roads Administration to the Department of Commerce. After investigation I have found and hereby declare that each reorganization included in this plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

This plan directly carries out the recommendation of the Commission on Organization of the Executive Branch of the Government with respect to the Public Roads Administration. That the Department of Commerce is the appropriate location for the Public Roads Administration in the executive branch is evident from the nature of its functions and the basic purpose of the Department. The Public Roads Administration is primarily engaged in planning and financing the development of the highways which provide the essential facilities for motor transportation throughout the country. Thus, it comes directly within the purpose of the Department of Commerce, as defined by its organic act, which provides:

> It shall be the province and duty of said Department to foster, promote, and develop the foreign and domestic commerce * * * and the transportation facilities of the United States.

In its reorganization proposals the Commission on Organization of the Executive Branch of the Government adhered to the statutory definition of the functions and role of the Department of Commerce. President Franklin D. Roosevelt and the Congress likewise were guided by this concept of the Department in transferring to it the Civil Aeronautics Administration and the Inland Waterways Corporation under the Reorganization Act of 1939. A careful review of the structure of the executive branch reveals no other department or agency in which the Public Roads Administration can so appropriately be located.

The desirability of this transfer of the Public Roads Administration is further emphasized by its relation to the Federal Property and Administrative Services bill now pending in the Senate. This bill creates a new General Services Administration and concentrates in it the principal central administrative service programs of the executive branch. The bill also revises the basic legislation on property management. It has been passed by the House of Representatives by an overwhelming vote and unanimously reported by the Senate Committee on Expenditures in the Executive Departments and awaits final action on the floor of the Senate. This measure substantially conforms to recommendations which I submitted to the Congress more than a year ago and to proposals more recently presented by the Commission on Organization of the Executive Branch of the Government, with which I concur. The enactment of this bill will constitute an important step in increasing the efficiency of Federal administration. Since the bill makes permanent provision for the disposal of surplus property, now handled by the War Assets Administration which will expire by law on June 30, early enactment is vital.

In establishing the General Services Administration the Federal Property and Administrative Services bill transfers to the Administration all of the functions and units of the Federal Works Agency. Part of these functions relating to the housing of the governmental establishment clearly fall within the purpose of such an Administration. Certain other functions of the Federal Works Agency, however, bear very little real relation to the objectives of the General Services Administration. The congressional committees which have dealt with the bill have frankly indicated that further consideration must be given to the proper location of some of the programs of the Federal Works Agency. The sooner these unrelated programs can be removed from the new agency, the sooner it can concentrate its efforts upon improving administrative services throughout the executive branch and make the contribution to governmental efficiency for which it has been designed.

Principal among the programs of the Federal Works Agency which are unrelated to the General Services Administration are those of the Public Roads Administration. This agency is primarily engaged in the administration of Federal grants to States for highway purposes rather than in the performance of services for other Federal agencies. Its functions, therefore, do not fall within the field of activities of the General Services Administration. Their inclusion cannot but complicate and impede the development of the General Services Administration in the performance of its intended purpose. This reorganization plan will eliminate such a difficulty.

Since the Public Roads Administration will be transferred bodily from one major agency to another, it is not to be expected that this reorganization will directly result in any appreciable reduction in its expenditures at this time. However, the plan will make for better organization and direction of Federal programs relating to transportation. Assuming the early enactment of the Federal Property and Administrative Services bill, the plan will also materially simplify the development of the proposed General Services Administration and thereby facilitate improvements in the efficiency of administrative services throughout the Government.

HARRY S. TRUMAN.

THE WHITE HOUSE, June 20, 1949.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Secretary of Commerce and other officers and offices of the Department of Commerce relating generally to highways under Reorg. Plan No. 7 of 1949 were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931. See section 1655(a)(1)(M) of Title 49, Transportation.

REORGANIZATION PLAN NO. 2 OF 1950

Eff. May 24, 1950, 15 F.R. 3173, 64 Stat. 1261

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

DEPARTMENT OF JUSTICE

SECS. 1-5. [Repealed. Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662].

§ 6. INCIDENTAL TRANSFERS

The Attorney General may from time to time effect such transfers within the Department of Justice of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Justice. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Assistant Attorney General and an Administrative Assistant Attorney General. The rate of compensation fixed for these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 3 OF 1950

Eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, as amended Pub. L. 92-22, § 3, June 1, 1971, 85 Stat. 76.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

DEPARTMENT OF THE INTERIOR

§ 1. TRANSFER OF FUNCTIONS TO THE SECRETARY

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of the Interior all functions of all other officers of the Department of the Interior and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) [see sections 551 et seq. and 701 et seq. of this title] in hearing examiners employed by the Department of the Interior, nor to the functions of the Virgin Islands Corporation or of its Board of Directors or officers.

§ 2. PERFORMANCE OF FUNCTIONS OF SECRETARY

The Secretary of the Interior may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Interior of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

§ 3. ASSISTANT SECRETARY OF THE INTERIOR

There shall be in the Department of the Interior one additional Assistant Secretary of the Interior, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall perform such duties as the Secretary of the Interior shall prescribe, and who shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

§ 4. ADMINISTRATIVE ASSISTANT SECRETARY

[Repealed. Pub. L. 92-22, § 3, June 1, 1971, 85 Stat. 76. Section authorized appointment of Administrative Assistant Secretary of Interior, and is now covered by section 1453a of Title 43 and section 5315(18) of Title 5. Section 3 provided that such repeal be effective upon Senate confirmation of Presidential appointment of Assistant Secretary of Interior under successor provisions.]

§ 5. INCIDENTAL TRANSFERS

The Secretary of the Interior may from time to time effect such transfers within the Department of the Interior of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of the Interior. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Assistant Secretary of the Interior and an Administrative Assistant Secretary of the Interior. The rate of compensation fixed for these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 5 OF 1950

Eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

DEPARTMENT OF COMMERCE

§ 1. TRANSFER OF FUNCTIONS TO THE SECRETARY

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Commerce all functions of all other officers of the Department of Commerce and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) [see sections 551 et seq. and 701 et seq. of this title] in hearing examiners employed by the Department of Commerce, nor to the functions of the Civil Aeronautics Board, of the Inland Waterways Corporation, or of the Advisory Board of the Inland Waterways Corporation.

§ 2. PERFORMANCE OF FUNCTIONS OF SECRETARY

The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Commerce of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

§ 3. ADMINISTRATIVE ASSISTANT SECRETARY

[Repealed. July 2, 1954, ch. 456, title III, § 304, 68 Stat. 430. Section authorized an Administrative Assistant Secretary of Commerce.]

§ 4. INCIDENTAL TRANSFERS

The Secretary of Commerce may from time to time effect such transfers within the Department of Commerce of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 5 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Commerce. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 5 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of Commerce. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 6 OF 1950

Eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1263

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

DEPARTMENT OF LABOR

§ 1. TRANSFER OF FUNCTIONS TO THE SECRETARY

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Labor all functions of all other officers of the Department of Labor and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) [see sections 551 et seq. and 701 et seq. of this title] in hearing examiners employed by the Department of Labor.

§ 2. PERFORMANCE OF FUNCTIONS OF SECRETARY

The Secretary of Labor may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Labor of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

§ 3. ADMINISTRATIVE ASSISTANT SECRETARY

There shall be in the Department of Labor an Administrative Assistant Secretary of Labor, who shall be appointed, with the approval of the President, by the Secretary of Labor under the classified civil service, who shall perform such duties as the Secretary of Labor shall prescribe, and who shall receive compensation at the rate of $14,000 per annum.

§ 4. INCIDENTAL TRANSFERS

The Secretary of Labor may from time to time effect such transfers within the Department of Labor of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 6 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Department of Labor. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 6 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of Labor. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

Harry S. Truman.

The White House, March 13, 1950.

REORGANIZATION PLAN NO. 8 OF 1950

Eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1264

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

Federal Trade Commission

§ 1. Transfer of Functions to the Chairman

(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Trade Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b)(1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of members of the Commission other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

§ 2. Performance of Transferred Functions

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

§ 3. Designation of Chairman

The functions of the Commission with respect to choosing a Chairman from among the membership of the Commission are hereby transferred to the President.

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 8 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Federal Trade Commission. My reasons for transmitting this plan are stated in any accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 8 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

Harry S. Truman.

The White House, March 13, 1950.

REORGANIZATION PLAN NO. 9 OF 1950

Eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

Federal Power Commission

§ 1. Transfer of Functions to the Chairman

(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Federal Power Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b)(1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

§ 2. Performance of Transferred Functions

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

§ 3. Designation of Chairman

The functions of the Commission with respect to choosing a Chairman from among the commissioners composing the Commission are hereby transferred to the President.

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 9 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Federal Power Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 9 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

Harry S. Truman.

The White House, March 13, 1950.

REORGANIZATION PLAN NO. 10 OF 1950

Eff. May 24, 1950, 15 F.R. 3175, 64 Stat. 1265

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

Securities and Exchange Commission

§ 1. Transfer of Functions to the Chairman

(a) Subject to the provisions of subsection (b) of this section there are hereby transferred from the Securities and Exchange Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b)(1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of Commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Commission its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

§ 2. Performance of Transferred Functions

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

§ 3. Designation of Chairman

The functions of the Commission with respect to choosing a Chairman from among the Commissioners composing the Commission are hereby transferred to the President.

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 10 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Securities and Exchange Commission. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 10 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

Harry S. Truman.

The White House, March 13, 1950.

REORGANIZATION PLAN NO. 13 OF 1950

Eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1266

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

Civil Aeronautics Board

§ 1. Transfer of Functions to the Chairman

(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Civil Aeronautics Board, hereinafter referred to as the Board, to the Chairman of the Board, hereinafter referred to as the Chairman, the executive and administrative functions of the Board, including functions of the Board with respect to (1) the appointment and supervision of personnel employed under the Board, (2) the distribution of business among such personnel and among administrative units of the Board, and (3) the use and expenditure of funds.

(b)(1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Board shall be subject to the approval of the Board.

(3) Personnel employed regularly and full time in the immediate offices of members of the Board other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) There are hereby reserved to the Board its functions with respect to revising budget estimates and with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

§ 2. Performance of Transferred Functions

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 13 of 1950, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Civil Aeronautics Board. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 13 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 14 OF 1950

Eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

LABOR STANDARDS ENFORCEMENT

In order to assure coordination of administration and consistency of enforcement of the labor standards provisions of each of the following Acts by the Federal agencies responsible for the administration thereof, the Secretary of Labor shall prescribe appropriate standards, regulations, and procedures, which shall be observed by these agencies, and cause to be made by the Department of Labor such investigations, with respect to compliance with and enforcement of such labor standards, as he deems desirable, namely: (a) The Act of March 3, 1931 (46 Stat. 1494, ch. 411), as amended [sections 276a to 276a-6 of Title 40]; (b) the Act of June 13, 1934 (48 Stat. 948, ch. 482) [section 276c of Title 40]; (c) the Act of August 1, 1892 (27 Stat. 340, ch. 352), as amended; (d) the Act of June 19, 1912 (37 Stat. 137, ch. 174), as amended; (e) the Act of June 3, 1939 (53 Stat. 804, ch. 175), as amended [sections 1703, 1708-1711, 1713, 1715c, 1716 of Title 12]; (f) the Act of August 13, 1946 (60 Stat. 1040, ch. 958); (g) the Act of May 13, 1946 (60 Stat. 170, ch. 251), as amended [sections 1101-1119 of Title 49]; (h) the Airport and Airway Development Act of 1970 [section 1701 et seq. of Title 49]; and (i) the Act of July 15, 1949 (ch. 338, Public Law 171, Eighty-first Congress, first session [sections 1416, 1451-1460 of Title 42]). [As amended Pub. L. 91-258, title I, § 52(b)(7), May 21, 1970, 84 Stat. 235].

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 14 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. For the purpose of coordinating the administration of labor standards under various statutes relating to Federal construction and public works or to construction with federally financed assistance or guaranties, the reorganization plan authorizes the Secretary of Labor to prescribe appropriate standards, regulations, and procedures with respect to these matters and to make such investigations concerning compliance with, and enforcement of, labor standards as he deems desirable. The purpose is to assure consistent and effective enforcement of such standards.

The plan is in general accord with the recommendations of the Commission on Organization of the Executive Branch of the Government. It constitutes a further step in rebuilding and strengthening the Department of Labor to make it the central agency of the Government for dealing with labor problems.

After investigation I have found and hereby declare that the reorganization contained in this plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

There are several laws regulating wages and hours of workers employed on Federal contracts for public works or construction. The "eight hour laws" limit the employment of laborers and mechanics on such projects to 8 hours per day and permit their employment in excess of that limit only upon condition that time and one-half the basic-wage rate is paid for the excess hours. The Davis-Bacon Act provides that the minimum rates of pay for laborers and mechanics on certain Federal public-works contracts shall be those prevailing for the corresponding classes of workers in the locality as determined by the Secretary of Labor. The Copeland anti-kick-back law prohibits the exaction of rebates or kick-backs from workers employed on the construction of Federal public works or works financed by the Federal Government and authorizes the Secretary of Labor to make regulations for contractors engaged on such projects.

In addition to the above statutes, there are several acts which require the payment of prevailing-wage rates, as determined by the Secretary of Labor, to laborers and mechanics employed on construction financed in whole or in part by loans or grants from the Federal Government or by mortgages guaranteed by the Federal Government. These acts are: the National Housing Act, the Housing Act of 1949, the Federal Airport Act, and the Hospital Survey and Construction Act of 1946.

With the exception of the Department of Labor, the Federal agencies involved in the administration of the various acts are divided into two classes: (1) agencies which contract for Federal public works or construction; and (2) agencies which lend or grant Federal funds, or act as guarantors of mortgages, to aid in the construction of projects to be built by State or local public agencies or private individuals and groups. The methods of enforcing labor standards necessarily differ between these two groups of agencies.

The methods adopted by the various agencies for the enforcement of labor standards vary widely in character and effectiveness. As a result, uniformity of enforcement is lacking and the degree of protection afforded workers varies from agency to agency.

In order to correct this situation, this plan authorizes the Secretary of Labor to coordinate the administration of legislation relating to wages and hours on federally financed or assisted projects by prescribing standards, regulations, and procedures to govern the enforcement activities of the various Federal agencies and by making such investigations as he deems desirable to assure consistent enforcement. The actual performance of enforcement activities, normally including the investigation of complaints of violations, will remain the duty of the respective agencies awarding the contracts or providing the Federal assistance.

Since the principal objective of the plan is more effective enforcement of labor standards, it is not probable that it will result in savings. But it will provide more uniform and more adequate protection for workers through the expenditures made for the enforcement of the existing legislation.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 15 OF 1950

Eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1267

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

ALASKA AND VIRGIN ISLANDS PUBLIC WORKS

§ 1. TRANSFER OF FUNCTIONS

There are hereby transferred to the Secretary of the Interior all functions of the Administrator of General Services under the Alaska Public Works Act, approved August 24, 1949, and under the Act of December 20, 1944 (58 Stat. 827) entitled "An Act to assist in the internal development of the Virgin Islands by the undertaking of useful projects therein, and for other purposes," as amended [section 1409 et seq. of Title 48], together with so much of any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the provisions of such Acts.

§ 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Secretary of the Interior may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Interior of any function transferred to such Secretary by the provisions of this reorganization plan.

§ 3. TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred to the Department of the Interior, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 15 of 1950, prepared in accordance with the Reorganization Act of 1949. The plan transfers the functions of the General Services Administration relating to public works in Alaska and in the Virgin Islands to the Department of the Interior. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 15 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

The savings to be realized from the transfers provided for in the plan cannot be predicted in detail at this time. The small size and restricted character of the Virgin Islands public-works program will prevent large reductions in administrative expenditures. However, by placing the responsibility for the activity in the Department generally concerned with the government and welfare of the islands, the plan will lead to a closer integration of the public-works program with verified needs.

The Alaska public-works program is new and will continue to grow for some time. As a result the overall costs of administration will increase under any organizational arrangements which may be established. The concentration of responsibility in the Department already charged with the execution of related programs in Alaska and required by law to approve all projects constructed under the Alaska Public Works Act of 1949 should, however, simplify relationships and lead to more economical administration than would otherwise be possible.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 16 OF 1950

Eff. May 24, 1950, 15 F.R. 3176, 64 Stat. 1268

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

CERTAIN EDUCATION AND HEALTH FUNCTIONS

§ 1. TRANSFER OF FUNCTIONS

There are hereby transferred to the Federal Security Administrator all functions of the Administrator of General Services under the Act of September 10, 1949, entitled "An Act to provide assistance for local school agencies in providing educational opportunities for children on Federal reservations or in defense areas, and for other purposes [former sections 231-235 of Title 20, now covered by sections 236 et seq. of Title 20]," and under the Water Pollution Control Act, approved June 30, 1948, as amended [sections 1151 et seq. of Title 33], together with so much of any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the provisions of such Acts.

§ 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Federal Security Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Federal Security Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

§ 3. TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred to the Federal Security Agency, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 16 of 1950, prepared in accordance with the Reorganization Act of 1949. The plan transfers to the Federal Security Agency the functions of the General Services Administration relating to assistance to local school districts and grants and loans for water-pollution-control projects. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization

Plan No. 16 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

The transfer of the responsibility for making payments to local school districts whose operating deficits are due in part to Federal activities is unlikely to result in an immediate reduction in expenditures for the administration of the program. However, by placing the function in the agency of the Government best informed in matters of public-school administration and presently charged with the payment of other grants for educational purposes, the plan will provide additional assurance that the funds appropriated for assistance to overburdened school districts will be most advantageously expended.

The relative newness and expanding character of the water-pollution-control program prevents the itemization of the reductions in expenditures which will follow the consolidation of responsibility for this activity. It is expected that the elimination of overlapping and the simplification of relationships which will result from the transfer will make it possible to administer grants and loans more expeditiously and at lower costs per project than can be done under the present division of responsibility.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 17 OF 1950

Eff. May 24, 1950, 15 F.R. 3177, 64 Stat. 1269

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

PUBLIC WORKS ADVANCE PLANNING AND OTHER FUNCTIONS

§ 1. TRANSFER OF FUNCTIONS

Except as otherwise provided in section 2 of this reorganization plan, there are hereby transferred to the Housing and Home Finance Administrator all functions of the Administrator of General Services under,

(1) the Act of October 13, 1949, entitled "An Act to provide for the advance planning of non-Federal public works,"

(2) title V of the War Mobilization and Reconversion Act of 1944, 58 Stat. 791, as amended [former section 1671 of Appendix to Title 50], and

(3) title II of the Act of October 14, 1940, entitled "An Act to expedite the provision of housing in connection with national defense, and for other purposes," as amended [sections 1531-1535 of Title 42], together with so much of any other function of the Administrator of General Services or of the General Services Administration as is incidental to or necessary for the carrying out of the foregoing provisions of law.

§ 2. FUNCTIONS EXCEPTED FROM TRANSFER

There are hereby excluded from the transfer effected by the provisions of section 1 of this reorganization plan functions with respect to the holding, management, and disposition of securities received prior to the effective date of this reorganization plan by the General Services Administration or its predecessor agency by reason of the disposal of property constructed or otherwise acquired under the provisions of said title II [sections 1531-1535 of Title 42], and functions with respect to litigation, and the liquidation of claims, arising out of the acquisition of land or the construction of facilities under the provisions of said title II [said sections].

§ 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Housing and Home Finance Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Housing and Home Finance Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

§ 4. TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred to the Housing and Home Finance Agency, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 17 of 1950, prepared in accordance with the Reorganization Act of 1949. The plan transfers the functions of the General Services Administration relating to the advance planning of non-Federal public works and the management and disposal of certain war public works to the Housing and Home Finance Agency. My reasons for transmitting this plan are stated in an accompanying general message.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 17 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

The first of the transfers provided for by this plan will result in the more economical administration of those activities of the Federal Government which are concerned with the over-all planning and development of communities. The concentration of responsibility in a single agency will make it possible to so integrate administration as to avoid duplication of technical staffs and to simplify relationships with State and local agencies. Moreover, by reducing the likelihood that the two programs involved will be administered at cross-purposes or in conflict with each other, it can be expected that the money expended will achieve greater benefits than would be likely under the present distribution of responsibility. It is not, however, possible to itemize the reduction in expenditures which will result, chiefly because both programs are of recent origin and are still undergoing expansion.

The transfer of the war public works functions will lead to modest savings by consolidating the responsibility for the management and disposal of all properties built or acquired under the Lanham Act of 1940, as amended, in the Agency which already has the greater part of the total job. The fact that it will become possible to manage and dispose of public facilities serving emergency housing developments without the interagency negotiation which is now necessary will lead to economies, although they cannot be itemized or predicted with exactness.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 18 OF 1950

Eff. July 1, 1950, 15 F.R. 3177, 64 Stat. 1270

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

Building and Space Management Functions

§ 1. Transfer of Space Assignment and Leasing Functions

All functions with respect to acquiring space in buildings by lease, and all functions with respect to assigning and reassigning space in buildings for use by agencies (including both space acquired by lease and space in Government-owned buildings), are hereby transferred from the respective agencies in which such functions are now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) space in buildings located in any foreign country;

(b) space in buildings which are located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, airfield, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) space occupied by the Post Office Department in post-office buildings and space acquired by lease for post-office purposes; and

(d) space in other Government-owned buildings which the Administrator of General Services finds are wholly or predominantly utilized for the special purposes of the agency having the custody thereof and are not generally suitable for the use of other agencies (including but not limited to hospitals, housing, laboratories, mints, manufacturing plants, and penal institutions), and space acquired by lease for any such purpose:

Provided, That the space needs of the Post Office Department shall be given priority in the assignment and reassignment of space in post office buildings.

§ 2. Transfer of Office Building Management Functions

All functions with respect to the operation, maintenance, and custody of office buildings owned by the Government and of office buildings or parts thereof acquired by lease, including those post-office buildings which, as determined by the Director of the Bureau of the Budget, are not used predominantly for post-office purposes, are hereby transferred from the respective agencies in which now vested to the Administrator of General Services, exclusive, however, of all such functions with respect to—

(a) any building located in any foreign country;

(b) any building located on the grounds of any fort, camp, post, arsenal, navy yard, naval training station, air field, proving ground, military supply depot, or school, or of any similar facility, of the Department of Defense, unless and to such extent as a permit for its use by another agency or agencies shall have been issued by the Secretary of Defense or his duly authorized representative;

(c) any building which the Administrator of General Services finds to be a part of a group of buildings which are (1) located in the same vicinity, (2) are utilized wholly or predominantly for the special purposes of the agency having custody thereof, and (3) are not generally suitable for the use of other agencies; and

(d) the Treasury Building, the Bureau of Engraving and Printing Building, the buildings occupied by the National Bureau of Standards, and the buildings under the jurisdiction of the regents of the Smithsonian Institution.

§ 3. Performance of Transferred Functions

(a) The Administrator of General Services may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the General Services Administration of any function transferred to such Administrator by the provisions of this reorganization plan.

(b) When authorized by the Administrator of General Services, any function transferred to him by the provisions of this reorganization plan may be performed by the head of any agency of the executive branch of the Government or, subject to the direction and control of any such agency head, by such officers, employees, and organizational units under the jurisdiction of such agency head as such agency head may designate: *Provided*, That functions with respect to post-office buildings shall not be delegated under the authority of this subsection to the head of any agency other than the Postmaster General.

(c) The Administrator of General Services shall prescribe such regulations as he deems desirable for the economical and effective performance of the functions transferred by the provisions of this reorganization plan.

§ 4. Transfer of Personnel, Property, Records, and Funds

There shall be transferred from time to time, between the agencies concerned and for use in connection with the functions transferred by the provisions of this reorganization plan, so much of the personnel, property, records, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds, relating to such functions, as may be necessary for the performance of said functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

§ 5. Effective Date

The provisions of this reorganization plan shall take effect on the 1st day of July 1950.

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 18 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan transfers to the Administrator of General Services the functions of the various Federal agencies with respect to leasing and assigning general-purpose space in buildings and the operation, maintenance, and custody of office buildings. Since such authority is already largely concentrated in the General Services Administration with respect to the District of Columbia, the plan principally relates to the administration of these functions in the field.

The transfers made by this plan will promote more economical leasing, better utilization of building space, and more efficient operation of Government-controlled office buildings. They will effectuate the recommendations of the Commission on Organization of the Executive Branch of the Government with respect to concentrating in the General Services Administration the responsibility for space allotment and the operation of Government buildings outside of the District of Columbia. Likewise, they will extend the principles laid down by the Congress in enacting the Federal Property and Administrative Services Act of 1949 to another important area of Government-wide administrative services—the administration of Government office buildings and general-purpose building space in the field.

Within the District of Columbia, one agency, the Public Buildings Service of the General Services Administration, has long had the operation and custody of most Government buildings and the leasing and assignment of space for executive agencies. Thus, nearly all requests for building space are handled by a single organization which is responsible for seeing that agencies are properly and efficiently housed. This arrangement has proved its worth and has repeatedly been approved by the Congress.

Outside of the National Capital, however, responsibility for the acquisition and control of building space and the operation of Government buildings is widely diffused. A variety of agencies operate and control general-purpose buildings. If quarters are not available in Federal buildings, each agency ordinarily does its own leasing. As a result, in some cases Federal agencies have contracted for space at high rentals at the very time that other agencies have been giving up surplus low-cost space.

The assignment of space in Government-owned buildings outside of Washington is also divided among a number of agencies. While the Public Buildings Service constructs a large part of the Government buildings, it operates and controls the assignment of space in only a small proportion of them. The Post Office Department operates and allocates the space in post-office buildings, several hundred of which contain substantial amounts of office space available for other agencies. During and immediately after the war several other Federal agencies acquired office buildings in the field. As their activities have contracted, surplus space in many of these structures has become available for other uses.

This plan concentrates in the General Services Administration the responsibility for the leasing and assignment of what is termed general-purpose building space; that is, space which is suitable for the uses of a number of Federal agencies. It specifically excludes space in buildings at military posts, arsenals, navy yards, and similar defense installations and space in hospitals, laboratories, factories, and other special-purpose buildings.

Also, the plan excludes the Post Office Department from the transfer of leasing authority since the Department has a highly developed organization for this purpose, and it limits the transfer of space assignment authority in post-office buildings to the space not occupied by the Department. Further, it gives the needs of the Post Office Department priority in the assignment of space in post-office buildings. Thus, the plan amply safeguards the interests of the Post Office Department while making it possible to include the general office space in post-office buildings in any given city with other similar space under Federal control in planning and executing an efficient program for housing Government agencies in that area.

In addition, the plan transfers to the General Services Administration the operation, maintenance, and custody of office buildings owned or leased by the Government, including those post-office buildings which are not used predominantly for post-office purposes. This will make it possible to establish a single organization for the operation and maintenance of Government office buildings in principal cities in the field as has proved desirable in the National Capital. Since many post offices are in fact primarily large office buildings, the plan includes in this transfer the post-office buildings which are not used predominantly for post-office purposes. This will relieve the Post Office Department of a considerable expenditure for building operation and maintenance which properly should not be charged against postal revenues.

While the plan effects a broad transfer of functions with respect to leasing and assignment of space and the operation and maintenance of office buildings, it specifically authorizes the Administrator of General Services to delegate the performance of any part of these functions to other agencies subject to such regulations as he deems desirable for economical and effective administration. In this the plan follows the pattern adopted by the Federal Property and Administrative Services Act of 1949 for other branches of property management. In large urban centers where numerous Federal units are located unified administration of space activities by the General Services Administration will normally be advantageous. On the other hand, in the smaller communities it will no doubt be desirable to delegate the work back to the agencies directly affected, to be carried on under standards laid down by the Administrator of General Services. The plan provides ample flexibility for working out the most effective administrative arrangement for each type of situation.

The fundamental soundness and economy of centralized administration of building space have been amply demonstrated in the National Capital. By virtue of unified control it has been possible since the war to accomplish far-reaching changes which have consolidated agencies in much fewer locations, released many of the rented buildings, and greatly reduced the cost of housing the Government establishment. Similar procedures applied in the larger centers of field activity should produce substantial savings.

After investigation, I have found, and hereby declare, that each reorganization contained in this plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

While it is not possible at this time to calculate the reduction in expenditures which will result from this plan, it can safely be predicted that it will produce substantial savings. I am confident that this reorganization plan will constitute a significant improvement in Federal business practice and will bring about an important increase in efficiency in housing Government agencies.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 19 OF 1950

Reorg. Plan No. 19 of 1950, 15 F.R. 3178, 64 Stat. 1271, which related to employee's compensation functions, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

REORGANIZATION PLAN NO. 20 OF 1950

Eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1272

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

STATUTES AT LARGE AND OTHER MATTERS

§ 1. FUNCTIONS TRANSFERRED FROM DEPARTMENT OF STATE TO ADMINISTRATOR OF GENERAL SERVICES

There are hereby transferred to the Administrator of General Services the functions of the Secretary of State and the Department of State with respect to:

(a) The receipt and preservation of the original copies of bills, orders, resolutions, and votes (R.S. 204, as amended [section 106a of Title 1]);

(b) The publication of acts and joint resolutions in slip form and the compilation, editing, indexing, and publication of the United States Statutes at Large, except such functions with respect to treaties and other international agreements (1 U.S.C. 112; R.S. 204, as amended [sections 106a and 112 of Title 1, and section 728 of Title 44]; R.S. 210, as amended [section 2660 of Title 22 and section 710 of Title 44]; R.S. 3805, as amended [section 711 of Title 44]; R.S. 3806, as amended [section 712 of Title 44]; Act of Jan. 12, 1895, 28 Stat. 609 and 615, as amended [sections 709-712, 728 of Title 44]; Act of April 12, 1904, 33 Stat. 587 [section 729 of Title 44]);

(c) The certification and publication of amendments to the Constitution of the United States (R.S. 205 [section 106b of Title 1]) and the preservation of such amendments;

(d) Certificates of appointment of the electors of the President and Vice President and certificates of the votes of such electors for President and Vice President (3 U.S.C. 6, 11-13 [now covered by sections 5, 11-13 of Title 5]); and

(e) The collection, copying, arranging, editing, copy reading, and indexing of the official papers of the Territories (Act of March 3, 1925, 43 Stat. 1104, as amended; Act of July 31, 1945, 59 Stat. 510 [sections 141 et seq. of Title 4]).

§ 2. ABOLITION OF FUNCTIONS

(a) The duty of the Secretary of State of procuring copies of all statutes of the several States is hereby abolished, but this shall not limit his authority to procure copies of such State statutes as may be needed in the performance of his functions (R.S. 206 [section 2659 of Title 22]).

(b) The duty of the Secretary of State of publishing Executive proclamations and treaties in a newspaper in the District of Columbia is hereby abolished (Act of July 31, 1876, 19 Stat. 105, as amended, 44 U.S.C. 321 [now covered by section 3701 of Title 44]).

§ 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Administrator of General Services may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the General Services Administration of any function transferred to such Administrator by the provisions of this reorganization plan.

§ 4. TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred to the General Services Administration, to be used, employed, and expended in connection with the functions transferred by the provisions of this reorganization plan, the records and property now being used or held in connection with such functions, the personnel employed in connection with such functions, and the unexpended balances of appropriations, allocations, and other funds available or to be made available for use in connection with such functions. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 20 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan transfers from the Secretary of State to the Administrator of General Services a number of functions which have no connection with foreign affairs but bear a close relation to the archival and records functions of the General Services Administration.

Since its establishment in 1789 the Department of State has performed certain routine secretarial and recordkeeping functions for the Federal Government which are entirely extraneous to its basic mission with respect to the conduct of foreign relations. While these activities do not properly belong in the Department, they were assigned to it and continued under its jurisdiction for want of an appropriate agency for their performance. At present these functions consist of the preservation and publication of laws, the preparation and publication of the Statutes at Large, the certification and publication of constitutional amendments, the receipt and preservation of certificates of Presidential electors and of electoral votes, and the compilation and publication of Territorial papers.

Through the National Archives and Records Service the General Services Administration is especially staffed and equipped for the conduct of activities of these types. It is the principal custodian of the official records of the Government. Under the Federal Register Act and the Administrative Procedure Act, it preserves and publishes in the Federal Register the Executive orders, proclamations, and other principal executive documents and it codifies and publishes the rules and regulations promulgated by the various departments and agencies. This work is generally similar in nature to, and much greater in volume than, that performed by the Department of State with respect to constitutional amendments, laws, and proclamations. Consequently, the consolidation of these activities of the State Department with the archival and records activities of the General Services Administration should make for greater efficiency and economy. The plan, however, does not transfer the custody and publication of treaties and international agreements, since they are matters of special concern to the Department of State and it is the agency most competent to edit such documents.

The handling of the certificates of Presidential electors and the compilation and publication of Territorial papers also more appropriately belong in the General Services Administration. The first is largely a matter of record keeping and the second of archival research. The preparation of the Territorial papers involves the compilation and editing of official documents of the various Territories formerly existing within the United States. The greater part of this material is now in the National Archives and the work involved is generally similar to that being performed by it with respect to other groups of public records.

In addition, the plan abolishes two statutory duties of the Secretary of State which have become obsolete. The first is the duty of procuring copies of all State statutes as provided in the act of September 23, 1789 (R.S. 206). Inasmuch as the Library of Congress now has a complete collection of the State laws, it is no longer necessary for the Department of State to maintain a complete collection. The second is the requirement, imposed by the act of July 31, 1876 (19 Stat. 105), as amended, that the Secretary of State publish proclamations and treaties in a newspaper in the District of Columbia. This is now unnecessary since proclamations are published in the Federal Register and treaties are made available currently in slip form in the Treaties and Other International Acts Series.

After investigation I have found and hereby declare that each reorganization included in this plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

The transfers provided by this plan will relieve the State Department of a number of functions that have no relation to its primary purpose and place them in an agency especially designed for the performance of such activities. Until these functions are incorporated in the operations of the General Services Administration, it will not, of course, be practicable to determine the economies attributable to their transfer, but it is reasonable to expect modest yet worth-while savings to be achieved.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 21 OF 1950

Eff. May 24, 1950, 15 F.R. 3178, 64 Stat. 1273

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

PART I. FEDERAL MARITIME BOARD

§§ 101—106. [Superseded. Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840].

PART II. MARITIME ADMINISTRATION

§ 201. CREATION OF MARITIME ADMINISTRATION

There is hereby established in the Department of Commerce a Maritime Administration.

§ 202 [Superseded. Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840].

§ 203. DEPUTY MARITIME ADMINISTRATOR

There shall be in the Maritime Administration a Deputy Maritime Administrator, who shall be appointed by the Secretary of Commerce, after consultation with the Administrator, under the classified civil service, and who shall perform such duties as the Administrator shall prescribe. The Deputy Maritime Administrator shall be Acting Maritime Administrator during the absence or disability of the Administrator and, unless the Secretary of Commerce shall designate another person, during a vacancy in the office of Administrator: *Provided*, That such Deputy Administrator shall at no time sit as a member or acting member of the Federal Maritime Board.

§ 204. TRANSFER OF FUNCTIONS

Except as otherwise provided in part I of this reorganization plan, all functions of the United States Maritime Commission and of the Chairman of said Commission are hereby transferred to the Secretary of Commerce. The Secretary of Commerce may from time to time make such provisions as he shall deem appropriate authorizing the performance by the Maritime Administrator of any function transferred to such Secretary by the provisions of this reorganization plan.

PART III. GENERAL PROVISIONS

§ 301. UNDER SECRETARY OF COMMERCE FOR TRANSPORTATION

There shall be in the Department of Commerce an additional office of Under Secretary with the title "Under Secretary of Commerce for Transportation." The Under Secretary of Commerce for Transportation shall be appointed by the President, by and with the advice and consent of the Senate, shall receive compensation at the rate prescribed by law for Under Secretaries of Executive departments, and shall perform such duties as the Secretary of Commerce shall prescribe.

§§ 302—306. [Superseded. Reorg. Plan No. 7 of 1961, eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840].

§ 307. RELATION TO OTHER REORGANIZATION PLAN

The functions transferred by the provisions of this reorganization plan shall not be subject to the provisions of Reorganization Plan Numbered 5 of 1950.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 21 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. This plan effects a basic reorganization of the functions of the United States Maritime Commission along the lines recommended by the Commission on Organization of the Executive Branch of the Government.

Within the last 3 years three different bodies have studied the administration of the Maritime Commission. All have concluded that the operating deficiencies of the agency arise from inappropriate and unsound organization and that a fundamental reorganization is essential. The first of these bodies, the President's Advisory Committee on the Merchant Marine, in 1947, stated:

> It appears to the Committee that the organization structure of the Maritime Commission as set up in the Merchant Marine Act of 1936 is wholly inadequate for the efficient conduct of the multitude of diverse activities for which the Maritime Commission is now responsible. The deficiencies of the statutory organization for administrative action are regarded by the Committee to be the most serious obstacle standing in the way of the development of the Merchant Marine of this country.

Similarly, the survey of the Maritime Commission in 1948 for the Senate Committee on Expenditures in the Executive Departments concluded that—

> The fundamental weakness of the Maritime Commission, as it is now constituted, lies in its proscribed organization.

On the basis of investigations of the Maritime Commission by two of its task forces, the Commission on Organization of the Executive Branch stated:

> It is an anomaly that a regulatory commission should also conduct the executive function of managing a huge business; that executive functions should be carried on by an agency that is not subject to Presidential directions; that executive functions should be carried on by a full-time board * * *.

While the recommendations of the various studies differ in some details, they agree on principles and on the main features of reorganization.

Basically, the administrative difficulties of the Maritime Commission have arisen, as all these studies agree, from the fact that the Commission is responsible for performing two fundamentally different types of functions which call for different types of organization. These two classes of functions are (a) regulatory and (b) operating and promotional. Under various acts the Commission regulates rates and services of water carriers; passes on agreements among carriers; and protects shippers against unfair and discriminatory practices. This type of activity requires the deliberation and independence of judgment which a board or commission is especially well designed to provide. But at the same time the Commission is charged with the conduct of a variety of large and costly promotional and business-type programs demanding the prompt and vigorous administration for which experience both in Government and in private enterprise has demonstrated that a single executive is essential.

The Maritime Commission has charge of the construction of merchant vessels for subsidized operators and for Government account. It owns and maintains the largest merchant fleet in the world, consisting of 2,200 vessels aggregating more than 22,000,000 deadweight tons. It charters and sells ships and, in time of war or national emergency, requisitions and operates vessels for the Government. It grants construction and operating differential subsidies to private shipping companies to maintain an active privately operated American merchant marine. It makes loans and insures mortgages to assist carriers in acquiring new vessels, and it conducts programs for training officers and seamen for the merchant marine. For the present fiscal year the performance of these functions will involve the expenditure of approximately $162,000,000 and the direction of an organization of 5,500 employees. In short, the administration of the Maritime Commission is a vast business undertaking. Moreover, the work of the Commission affects significantly the interests of both business and labor in the maintenance of a sound maritime industry.

Further than this, many of the activities of the Maritime Commission are closely related to other programs of the Government and have to be coordinated with them. In the construction of a subsidized ship the Commission must cooperate with the Coast Guard on those features of design, materials, and equipment which affect the safety of the vessel and with the Navy on those which especially affect the use of the ship for national defense. Furthermore, the whole program of subsidized ship construction needs to be adjusted to the plans and requirements for national defense. At the same time the Commission's programs for the development of the merchant marine must be coordinated with our foreign policy and with Federal programs with respect to other branches of transportation.

While an independent commission is an appropriate instrument for the performance of the regulatory functions of the Maritime Commission, such an agency obviously is not the type required to provide strong and efficient administration of the large operating programs now entrusted to the Commission or to obtain the needed coordination with other activities of the executive branch. This fact is amply demonstrated by the administrative difficulties and the complicated problems of coordination encountered in the operation of the Commission since the war and by the necessity of transferring a large part of its functions to the War Shipping Administration, headed by a single executive, during the war.

Briefly, this reorganization plan provides for a small Federal Maritime Board and a Maritime Administration in the Department of Commerce to perform the functions of the Maritime Commission, and abolishes the existing Commission. It transfers to the Board the regulatory functions of the Commission and definitely guarantees the independence of the Board in the performance of these functions. In addition, it vests directly in the Board the determination and award of construction and operating differential subsidies. In the performance of its subsidy functions the Board will be subject to general policy guidance by the Secretary of Commerce. The Board, however, and it alone, will determine to whom subsidies shall be granted and will make and award the subsidy contracts. Its actions therein will be conclusive and will not be subject to modification by any other agency or officer of the Department of Commerce. The other functions of the Maritime Commission, including carrying out the subsidy agreements made by the Board and administering the various operating programs, are transferred to the Secretary of Commerce for administration through the Maritime Administration. Thus, the plan provides for each of the two types of functions now vested in the Maritime Commission the type of organization best suited to its performance. At the same time, the plan will facilitate coordination of maritime policies and programs with other related policies and programs.

The division of functions under this plan conforms directly to the recommendations of the Commission on Organization of the Executive Branch of the Government. While the award of subsidies is a promotional rather than a regulatory function and might logically be assigned to the Maritime Administration instead of the Board, its impact on the shipping industry and on individual carriers is such as to make desirable the deliberation and combined judgment of a board. Accordingly, I have adhered to the recommendation of the Commission on Organization that this function be vested in a multiple body rather than a single official. Likewise, in line with the recommendations of the Commission, the plan assigns the determination of the over-all route pattern to the Secretary of Commerce.

The Maritime Board will consist of three members appointed by the President with the consent of the Senate for overlapping terms of 4 years. Not more than two of the members can be of the same political party. The Board, therefore, will be a smaller and more wieldy body which can function with greater expedition and efficiency than the existing five-member Commission. The Chairman will be designated by the President from the members of the Board and will be, ex officio, the Maritime Administrator and as such the head of the Maritime Administration. The plan also provides for a Deputy Maritime Administrator appointed by the Secretary of Commerce under the classified civil service. After investigation I have found, and hereby declare, that by reason of the reorganizations made by this plan, it is necessary to include in the plan provisions for the appointment and compensation of the members of the Federal Maritime Board and for the appointment of the Deputy Maritime Administrator.

In making the Chairman of the Federal Maritime Board the Maritime Administrator, the plan adopts an arrangement substantially similar to that which prevailed during the war, when the same individual served as Chairman of the Maritime Commission and head of the War Shipping Administration. This arrangement will have important advantages. It will facilitate cooperation between the Board and the Administration on matters of concern to both. Also, it will avoid dividing the personnel of the Maritime Commission, since the Chairman of the Board will supervise the personnel assisting it in the performance of its functions, as is now the case in the Maritime Commission, and in his capacity as Administrator he will have charge of the personnel carrying on the work of the Maritime Administration. The plan provides for the joint operation of the officers and employees under the Administrator and Chairman as a single body of personnel. The maintenance of a unified staff is essential for efficient and economical administration because many of the technical and professional personnel, such as ship designers and attorneys, now assist the Maritime Commission on problems of subsidy determination and also participate in the subsequent administration of subsidy agreements and in performing nonsubsidy functions.

The inclusion of the new Board in the Department of Commerce will permit the use of the administrative services of the Department. More important, it will eliminate the necessity of splitting the personnel of the Maritime Commission between the Department and an outside agency. In addition, it will relieve the President of having to handle relations with a separate maritime agency.

In establishing the Department of Commerce the Congress provided in the organic act of the Department that—

> It shall be the province and duty of said Department to foster, promote, and develop the foreign and domestic commerce, * * * shipping, * * * and the transportation facilities of the United States.

Over the years, however, transportation functions have become widely scattered throughout the executive branch. As a result, intelligent planning and budgeting of Federal transportation activities and the necessary coordination of transportation programs have become extremely difficult or impossible. The transfer of the functions of the Maritime Commission to the Department of Commerce will constitute a major step in correcting this condition.

Without question the Department of Commerce is now the appropriate center for transportation programs. It contains the Civil Aeronautics Administration—the major operating and promotional agency of the Government in the field of air transportation—and the Weather Bureau, and the Coast and Geodetic Survey, which provide vital services to transportation. As a result of Reorganization Plan No. 7 of 1949, it now also includes the Bureau of Public Roads, the leading promotional agency dealing with land transportation. Also, it has the Inland Waterways Corporation in the field of water transportation. The transfer of the functions of the Maritime Commission will bring into the Department the principal water-transportation agency of the Government. These actions will go a long way toward the establishment of a sound and effective organization for the operating and promotional programs of the Government relating to transportation.

It is my purpose to look to the Secretary of Commerce for leadership with respect to transportation problems and for the development of over-all transportation policy within the executive branch. Because of the magnitude and importance of the transportation functions transferred to the Department of Commerce by this reorganization plan, I have found and hereby declare that it is necessary to strengthen the top administrative structure of the Department by providing for the appointment and compensation of a new Under Secretary of Commerce for Transportation. This will make available an officer of the highest rank to assist the Secretary in supervising the varied and complex transportation programs of the Department and providing central leadership in transportation matters. With the many responsibilities of the Secretary of Commerce in other areas, the creation of this office is essential to enable him properly to fulfill his obligations with respect to transportation.

After careful investigation I have found and I hereby declare that each of the reorganizations contained in this reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949. The rates of compensation fixed by the provisions of the reorganization plan for the Under Secretary of Commerce for Transportation, the Chairman, and the other two members of the Federal Maritime Board are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

In summary, the reorganizations provided by this plan will have the following principal advantages: They will provide an efficient organization headed by a single responsible official to administer the large operating and business-type programs of the Maritime Commission. At the same time, they will preserve the benefits of a bipartisan board for the performance of the regulatory functions of the Commission and the determination of subsidies. They will reduce the number of agencies reporting directly to the President and simplify the over-all management of the executive branch. In doing so, they will provide more adequate machinery for supervising the administration of the maritime programs and will facilitate their coordination with related policies and programs of the executive branch. Finally, they will accomplish a major advance in the development of an effective organization of Federal transportation programs in accord with the recommendations of the Commission on Organization of the Executive Branch of the Government. While it is impossible to estimate in advance the savings which will be brought about by this plan, the improvements in administrative efficiency resulting from it should produce substantial reductions in expenditures for the programs transferred by the plan.

HARRY S. TRUMAN.

THE WHITE HOUSE, March 13, 1950.

REORGANIZATION PLAN NO. 22 OF 1950

Eff. Sept. 7, 1950, 15 F.R. 4365, 64 Stat. 1277

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

FEDERAL NATIONAL MORTGAGE ASSOCIATION

§ 1. TRANSFER OF ASSOCIATION AND ITS FUNCTIONS

The Federal National Mortgage Association, together with its functions, is hereby transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Agency and shall be administered subject to the direction and control of the Housing and Home Finance Administrator.

§ 2. TRANSFERS TO THE HOUSING ADMINISTRATOR

There are hereby transferred from the Reconstruction Finance Corporation to the Housing and Home Finance Administrator—

(1) the notes of the Federal National Mortgage Association payable to the Reconstruction Finance Corporation;

(2) the capital stock of the Federal National Mortgage Association;

(3) the function of the Reconstruction Finance Corporation of making payments on its notes issued to the Secretary of the Treasury in an amount equal to (a) the unpaid principal of, and accrued interest on, the notes of the Federal National Mortgage Association transferred under (1) above, (b) any funds of the Reconstruction Finance Corporation transferred under the provisions of section 5 hereof, (c) the book value of any office furniture and equipment of the Reconstruction Finance Corporation transferred under the provisions of section 5 hereof, and (d) the par value of the capital stock of the Federal National Mortgage Association plus the amount of its surplus paid in by the Reconstruction Finance Corporation;

(4) the function of issuing notes or other obligations to the Secretary of the Treasury, which may be purchased by the Secretary, under section 7 of the Reconstruction Finance Corporation Act, as amended [section 606 of Title 15], in an amount not in excess of that necessary to finance at any one time the outstanding balances of the investments, loans, and purchases held by the Federal National Mortgage Association, taking into consideration other balance-sheet items;

(5) except as otherwise provided in this reorganization plan, all other functions of the Reconstruction Finance Corporation (including functions of the Board of Directors of such Corporation and functions of the Chairman of the Board of Directors of such Corporation) with respect to the Federal National Mortgage Association; and

(6) all functions of the Federal Housing Commissioner with respect to the Federal National Mortgage Association.

§ 3. BOARD OF DIRECTORS AND OFFICERS

Functions with respect to serving, including eligibility to serve, as members of the Board of Directors of the Federal National Mortgage Association and as officers of such Association are hereby transferred from the members of the Board of Directors of, and from the officers and employees of, the Reconstruction Finance Corporation to the officers and employees of the Housing and Home Finance Agency (including those of the constituent agencies of the Housing and Home Finance Agency).

§ 4. PERFORMANCE OF FUNCTIONS OF ADMINISTRATOR

The Housing and Home Finance Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Housing and Home Finance Agency of any function transferred to such Administrator by the provisions of this reorganization plan.

§ 5. TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred with the functions transferred by this reorganization plan, respectively, all of the assets, liabilities, contracts, property, records, and unexpended balances of authorizations, allocations and other funds, available or to be made available, of the Federal National Mortgage Association, and so much of the assets, liabilities, contracts, property, records, personnel, and unexpended balances of authorizations, allocations, and other funds, available or to be made available, of the Reconstruction Finance Corporation and relating to functions transferred by the provisions of this reorganization plan, as the Director of the Bureau of the Budget shall determine to be necessary for the administration of such functions, excluding, however, (1) the members of the Board of Directors of the Federal National Mortgage Association in office immediately prior to the taking effect of the provisions of this reorganization plan, and (2) the officers of the Association then in office. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

§ 6. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect 60 days after they would take effect under section 6 (a) of the Reorganization Act of 1949 in the absence of this section.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 22 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan improves the grouping of Government programs according to their major purposes by transferring the Federal National Mortgage Association from the Reconstruction Finance Corporation to the Housing and Home Finance Agency. This reorganization carries out the specific recommendation of the Commission on Organization of the Executive Branch of the Government that

"The Federal National Mortgage Association be placed under the Administrator of the Housing and Home Finance Agency."

At present, the Federal National Mortgage Association, a wholly owned Government corporation, is a subsidiary of the Reconstruction Finance Corporation. Its purpose is to provide a secondary market for home mortgages insured or guaranteed by other Government agencies through the purchase, service, and sale of such mortgages. In addition, it is authorized to make direct loans for housing in Alaska. As of the end of March 1950 its total holdings were approximately a billion dollars and its outstanding commitments to purchase were more than $1,400,000,000 in addition. Such a volume of activity has an obvious impact on the Government's entire housing program.

The Congress has long recognized that the function of such a secondary mortgage market is closely related to the entire housing program. The Federal National Mortgage Association originally was chartered by the head of the Federal Housing Administration as authorized by title III of the National Housing Act. In rechartering the Federal National Mortgage Association 2 years ago the Congress recognized the relationship between it and the operations of the Housing and Home Finance Agency by providing that the Federal Housing Commissioner alone would have authority to determine whether and when the Federal National Mortgage Association should be terminated. This act also required submission of semiannual reports to the Federal Housing Commissioner and for the transmittal by him of these reports to the Congress together with his recommendations thereon.

Nearly 3 years ago the Congress approved the establishment of the Housing and Home Finance Agency under an Administrator who could be held responsible by the President and the Congress for the general coordination and supervision of Federal housing programs placed in the Housing Agency at that time. The Federal National Mortgage Association was not then made a part of the Housing Agency because the provisions of section 5(e) of the reorganization act then in effect precluded submission of plans involving agencies whose organizational status had been changed by the Congress subsequent to January 1, 1945. The act of February 24, 1945, transferred the Federal Loan Agency, which included the Federal National Mortgage Association, from the Department of Commerce. Moreover, the holdings of the Federal National Mortgage Association amounted to only $7,500,000. This small volume of operation presented few immediate problems of coordination with other aspects of the entire housing program. However, the basic relationship of the Federal National Mortgage Association to the housing program was recognized by making the chairman of the Reconstruction Finance Corporation, or his designee, a member of the National Housing Council.

The present high volume of activity by the Federal National Mortgage Association has radically altered the situation which existed in 1947 and has made it essential that these market operations be geared more closely into the Government's housing program. The manner in which these market operations are administered has a direct effect on the kind of mortgages written and the availability and cost of mortgage credit. The secondary market must be administered, therefore, at all times in full consistency with other programs affecting housing credit.

The Government seeks to accomplish the objectives of its housing program through the use of several methods. The purchase and sale of home mortgages in the secondary market by the Federal National Mortgage Association is merely one of such methods. Others include the insurance of home mortgages and improvement loans, insurance of shares of savings and loan associations, and loans and grants to local public agencies for the purpose of financing low-rent housing projects and slum clearance. All of these methods are means whereby the objectives of the housing program are achieved and should be the responsibility of the agency charged with that program.

The transfer of the Federal National Mortgage Association will not prevent the Reconstruction Finance Corporation from making loans to business enterprises on the security of real estate, or from accepting mortgages as collateral in connection with a business loan. This type of activity is consistent with normal business lending functions.

The transfer of the Federal National Mortgage Association to the Housing and Home Finance Agency will assure the necessary coordination of its operations with other housing programs, thus providing a sounder basis for future progress toward a better-housed America. It is not probable that the reorganization in this plan will immediately result in reduced expenses, but in view of the relationship to other programs of housing aids, a more consistent approach in carrying out such policies will be possible and should result in long-term economies.

After investigation I have found, and I hereby declare, that each reorganization included in Reorganization Plan No. 22 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

In view of the direct relation of the Federal National Mortgage Association to other housing finance programs, which was initially recognized by the Congress and only last year reiterated by the Commission on Organization of the Executive Branch of the Government, I recommend that the Congress grant its approval to the transfer provided in this reorganization plan.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 9, 1950.

REORGANIZATION PLAN NO. 23 OF 1950

Eff. Sept. 7, 1950, 15 F.R. 4365, 64 Stat. 1279

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

LOANS FOR FACTORY-BUILT HOMES

§ 1. TRANSFER OF FUNCTIONS

There are hereby transferred to the Housing and Home Finance Administrator, hereinafter referred to as the Administrator—

(1) all functions of the Reconstruction Finance Corporation, hereinafter referred to as the "Corporation," under section 102 of the Housing Act of 1948, as amended [section 1701g of Title 12];

(2) all other functions of the Corporation, under the Reconstruction Finance Corporation Act, as amended [section 601 et seq. of Title 15]; or any other law, with respect to financing predominantly for the production, manufacture, distribution, sale, purchase, or erection of prefabricated houses, sections, or panels or site improvements therefor;

(3) the function of the Corporation of making payments on its notes issued to the Secretary of the Treasury in an amount equal to the funds and the unpaid principal of, and accrued interest on, the loans and obligations payable to the Corporation which are transferred under the provisions of this reorganization plan; and

(4) so much of any other function of the Corporation as is incidental to or necessary for the performance of the functions referred to in items (1) and (2), above, including the issuance of obligations to the Secretary of the Treasury, which may be purchased by the Secretary, under section 7 of the Reconstruction Finance Corporation Act, as amended [section 606 of Title 15]: *Provided*, That the amount of such obligations issued by the Administrator and outstanding at any one time shall not exceed the sum of (a) the funds and the unpaid principal of, and accrued interest on, the loans and obligations transferred under this reorganization plan and (b) the unexpended balances of authorizations and allocations transferred hereunder,

less the amount of any funds transferred hereunder for such unexpended balances from which sum shall be deducted the outstanding amount of any notes with respect to which the function of making payments is transferred under (3) above.

§ 2. TRANSFER OF RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There are hereby transferred to the Housing and Home Finance Agency (1) the assets, contracts, loans, liabilities, commitments, property, and records, of the Corporation relating to the functions transferred by this reorganization plan, (2) such of the personnel of the Corporation relating to said functions as the Director of the Bureau of the Budget shall determine, and (3) so much of the unexpended balances of authorizations, allocations, and funds, available or to be made available, of the Corporation relating to such functions (including authorizations and allocations for administrative expenses) as the Director of the Bureau of the Budget shall determine. Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner as the Director shall direct and by such agencies as he shall designate.

§ 3. PERFORMANCE OF FUNCTIONS OF ADMINISTRATOR

The Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Housing and Home Finance Agency of any function transferred to the Administrator by the provisions of this reorganization plan.

§ 4. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect sixty days after they would take effect under section 6 (a) of the Reorganization Act of 1949 in the absence of this section.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 23 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan further promotes the grouping of Government programs according to their major purposes by transferring from the Reconstruction Finance Corporation to the Housing and Home Finance Agency the lending functions of the Government with respect to the production and distribution of prefabricated houses and components. This reorganization would be consistent with the objective set by the Commission on Organization of the Executive Branch of the Government which recommended that "all housing activities be placed in one agency under a single administrator."

Under its general powers pursuant to the Reconstruction Finance Corporation Act, and pursuant to the Veterans' Emergency Housing Act of 1946, the Reconstruction Finance Corporation has made a number of loans to finance the production, distribution, and marketing of prefabricated houses and components. In addition, under section 102 of the Housing Act of 1948, the Reconstruction Finance Corporation is specifically authorized to make loans, not exceeding $50,000,000 outstanding at any one time, to finance the production of such housing. The greater portion of the loans so authorized have been made and are now outstanding.

The development of an efficient prefabricated housing industry is an essential part of the total housing program. It, therefore, requires integration with the major housing activities of the Federal Government.

Moreover, the functions to be transferred from the Reconstruction Finance Corporation are complementary to other activities of the Housing and Home Finance Agency in the field of manufactured housing. The Agency has under way considerable research on this type of housing construction. Under the National Housing Act, the Federal Housing Administration, a constituent agency, insures loans for the manufacture of such housing as well as mortgages on such houses when erected and sold. Thus, the successful operation of the program of loans for the manufacture of prefabricated houses depends, to a large extent, on the ready availability of mortgage insurance by the Federal Housing Administration as the primary means of assuring permanent financing for their sale.

The Federal Housing Administration also insures mortgages on rental housing developments to serve military installations under title VIII of the National Housing Act, as amended, the so-called Military Housing Act. The Congress recently has recognized the place of prefabricated houses in this program by amending the law to make it clear that the Department of Defense should use prefabricated housing which conforms to standards established by the Federal Housing Administration wherever it is feasible to do so. The development of a strong, expansible prefabricated housing industry also is essential for rapidly meeting any emergency housing needs of the country. The Housing and Home Finance Agency, in cooperation with the National Security Resources Board, should be in a position to encourage peacetime uses of prefabricated housing readily adaptable to potential emergency requirements of the future.

The transfer by this reorganization plan of the functions, loans, and unused authorizations of the Reconstruction Finance Corporation with respect to prefabricated housing will place most of the Government functions concerning such housing in the Housing and Home Finance Agency. This will make possible greater consistency between governmental assistance available for the production or manufacture of prefabricated houses with governmental assistance available for the distribution, erection, and marketing of such housing. It will also assure coordination and integration of the prefabricated housing functions with other programs within the Housing and Home Finance Agency and thus materially assist in carrying out the national housing policy.

This reorganization may not result in substantial immediate savings, although benefits should be achieved through improved operations which will result in economies over a period of time. An itemization of these economies in advance of actual experience is not practicable.

After investigation I have found, and I hereby declare, that each reorganization contained in Reorganization Plan No. 23 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2 (a) of the Reorganization Act of 1949.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 9, 1950.

REORGANIZATION PLAN NO. 25 OF 1950

Eff. July 9, 1950, 15 F.R. 4565, 64 Stat. 1280

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

NATIONAL SECURITY RESOURCES BOARD

§ 1. FUNCTIONS OF CHAIRMAN AND OF BOARD

The functions of the National Security Resources Board are hereby transferred to the Chairman of the National Security Resources Board, and the Board shall hereafter advise and consult with the Chairman with respect to such matters within his jurisdiction as he may request.

§ 2. VICE CHAIRMAN

There is hereby established the office of Vice Chairman of the National Security Resources Board. Such Vice Chairman shall (1) be an additional member of the National Security Resources Board, (2) be appointed from civilian life by the President, by and with the advice and consent of the Senate, (3) receive compensation at the rate of $16,000 per annum, and (4) perform such of the duties of the Chairman as the Chairman shall designate.

§ 3. PERFORMANCE OF FUNCTIONS OF CHAIRMAN

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the National Security Resources Board of any function of the Chairman.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 25 of 1950, prepared in accordance with the provisions of the Reorganization Act of 1949. The plan transfers the function of the National Scurity Resources Board from the Board to the Chairman of the Board and makes the Board advisory to the Chairman. The plan also provides for a Vice Chairman, appointed by the President and confirmed by the Senate.

The function assigned to the National Security Resources Board by the National Security Act of 1947 is "to advise the President concerning the coordination of military, industrial and civilian mobilization." Proper performance of this function requires action by the Board and its staff in two broad areas:

(1) The conduct of advance mobilization planning which identifies the problems which will arise and the measures necessary to meet these problems if and when the Nation moves from a peacetime into a wartime situation.

(2) The formulation of current policies and programs which will help the Nation achieve an adequate state of readiness against the eventuality of a future war.

The role assigned the National Security Resources Board is clearly one of staff assistance to the President. The Congress recently recognized this fact in its approval of Reorganization Plan No. 4 of 1949 which, pursuant to the specific recommendation of the Hoover Commission, placed the National Security Resources Board in the Executive Office of the President.

The accompanying reorganization plan is designed to make the National Security Resources Board a more effective instrument. Successful performance of the Board's mission requires a wide range of detailed study and analysis to cover all the major aspects of national mobilization. A committee of department heads or departmental representatives encounters some natural difficulties in providing supervision and leadership in such an extensive and detailed activity. The Chairman has the difficult task of exercising discretion as to which matters shall be submitted for Board approval. The departmental members of the Board cannot possibly supervise or approve the Board's extensive and detailed activities and yet, as Board members, must accept ultimate responsibility for all such activities. Likewise, the departmental members are encumbered by the difficulty of having to reach collective and speedy decisions on a great many matters for which they, as Board members, are responsible.

By vesting the functions of the Board in the Chairman, the difficulties of Board operation will be overcome. At the same time, the reorganization plan provides for the continued participation of the several departments and agencies in the task of mobilization planning. This is not only a matter of established policy but also a requirement of the National Security Act. The departments will continue to have representation on the Board. The Board, in an advisory relationship to the Chairman, will be a useful arrangement for obtaining the necessary participation of departments in mobilization planning and for coordination of their activity. It will enable the departments to keep abreast of the total range of security resources planning. Without reliance on the departments for the execution of much of the actual job of mobilization planning, coordination with the total range of governmental policies and objectives would be lost.

The Congress in passing the National Security Act Amendments of 1949 recognized the difficulty which exists when functions of staff advice and assistance are placed in a board-type agency. The National Security Act Amendments of 1949, in clarifying the role of the Chairman of the Munitions Board and the Research and Development Board, strengthened and increased the effectiveness of these staff agencies of the Secretary of Defense by providing for the exclusive exercise of responsibilities by the Chairman. This plan achieves the same objective for the National Security Resources Board.

The accompanying reorganization plan provides for a Vice Chairman appointed by the President and confirmed by the Senate. The tremendous responsibilities of the National Security Resources Board and the heavy workload on the Chairman fully warrant this. Providing the Chairman with a principal associate for the exercise of his responsibilities is consistent with the usual practice in other agencies of the executive branch.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 25 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of a Vice Chairman of the National Security Resources Board. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in Reorganization Plan No. 25 may not in itself result in substantial immediate savings. However, the important objective is maximum effectiveness in security resources planning.

The security of this Nation requires that these steps be taken to enable security resources planning to move forward more effectively. It is for that reason that Reorganization Plan No. 25 is today submitted to the Congress. It is for that reason, and that reason alone, that I strongly urge congressional acceptance of Reorganization Plan No. 25.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 9, 1950.

REORGANIZATION PLAN NO. 26 OF 1950

Eff. July 31, 1950, 15 F.R. 4935, 64 Stat. 1280, as amended May 18, 1972, Pub. L. 92-302, § 1(d), 86 Stat. 149.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 31, 1950, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

DEPARTMENT OF THE TREASURY

§ 1. TRANSFER OF FUNCTIONS TO THE SECRETARY

(a) Except as otherwise provided in subsection (b) of this section, and subject to the provisions of subsection (c) of this section, there are hereby transferred to the Secretary of the Treasury all functions of all other officers of the Department of the Treasury and all functions of all agencies and employees of such Department.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act (60 Stat. 237) [see sections 551 et seq. and 701 et seq. of this title] in hearing examiners employed by the Department of the Treasury or to functions vested by any provision of law in the Comptroller of the Currency.

(c) Notwithstanding the transfer to the Secretary of the Treasury of the functions of the United States Coast Guard and of the functions of the Commandant of the Coast Guard, effected by the provisions of subsection (a) of this section, such Coast Guard, together with the said functions, shall operate as a part of the Navy, subject to the orders of the Secretary of the Navy, in time of war or when the President shall so direct, as provided in section 1 of the Act of January 28, 1915 (ch. 20, 38 Stat. 800, as amended, sections 1 and 4 of Title 14).

§ 2. PERFORMANCE OF FUNCTIONS OF SECRETARY

The Secretary of the Treasury may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of the Treasury of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

§ 3. ADMINISTRATIVE ASSISTANT SECRETARY

[Repealed. Pub. L. 92-302, § 1(d), May 18, 1972, 86 Stat. 149. Section provided for an Administrative Assistant Secretary of the Treasury, his duties and compensation.]

§ 4. INCIDENTAL TRANSFERS

The Secretary of the Treasury may from time to time effect such transfers within the Department of the Treasury of any of the records, property, personnel, and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of such Department as he may deem necessary in order to carry out the provisions of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 26 of 1950, prepared in accordance with the Reorganization Act of 1949 and effecting reorganizations in the Department of the Treasury. The reorganizations included in this plan are identical with those contained in Reorganization Plan No. 1 of 1950, except that the functions of the Comptroller of the Currency are unaffected by Reorganization Plan No. 26 of 1950.

In transmitting Reorganization Plan No. 1 of 1950 on March 13, I stated that the reorganizations contained therein were essential to clarification of the lines of authority and responsibility in the executive branch. I further emphasized that those reorganizations would put into effect in the Department of the Treasury the principal remaining recommendations of the Commission on Organization of the Executive Branch of the Government affecting the location of management responsibility. I urged the Congress to add its approval to my acceptance of these recommendations of the Commission on Organization.

On May 11 the Senate disapproved Reorganization Plan No. 1 of 1950. The reason for the disapproval was the inclusion of the functions of the Comptroller of the Currency among the responsibilities proposed to be transferred to the Secretary of the Treasury. Accordingly, in order to meet the objection which led to such disapproval and to preserve the major benefits of the disapproved plan, Reorganization Plan No. 26 of 1950 is transmitted herewith.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 26 of 1950 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of an Administrative Assistant Secretary of the Treasury. The rate of compensation fixed for this officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in this plan may not in itself result in substantial immediate savings. However, many benefits in improved operations are probable during the next years which will result in a reduction in expenditures as compared with those that would be otherwise necessary. An itemization of these reductions in advance of actual experience under this plan is not practicable.

HARRY S. TRUMAN.

THE WHITE HOUSE, May 31, 1950.

APPLICABILITY OF 1950 REORG. PLAN NO. 26 TO REVENUE ACT OF 1951

Section 616 of the Revenue Act of 1951 act, Oct. 20, 1951, ch. 521, title VI, 65 Stat. 569, provided that the provisions of 1950 Reorg. Plan No. 26 should be applicable to all functions vested by such act in any officer, employee, or agency of the Department of the Treasury.

REORGANIZATION PLAN NO. 1 OF 1951

Eff. May 1, 1951, 16 F.R. 3690, 65 Stat. 773

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 19, 1951, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [section 901 et seq. of this title].

RECONSTRUCTION FINANCE CORPORATION

§ 1. ADMINISTRATOR OF THE CORPORATION

There is hereby established the office of Administrator of the Reconstruction Finance Corporation, hereinafter referred to as the Administrator. The Administrator shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of $17,500 per annum.

§ 2. DEPUTY ADMINISTRATOR

There is hereby established the office of Deputy Administrator of the Reconstruction Finance Corporation, who shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate of $16,000 per annum, shall perform such duties as the Administrator may from time to time designate, and shall be Acting Administrator and perform the functions of the Administrator, including his functions as a member and the Chairman of the Loan Policy Board hereinafter provided for, during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

§ 3. OTHER EMPLOYMENT PROHIBITED

No person shall while holding the office of Administrator or Deputy Administrator engage in any business, vocation, or employment other than that involved in the holding of such office.

§ 4. LOAN POLICY BOARD

There is hereby established the Loan Policy Board of the Reconstruction Finance Corporation, which shall be composed of the following members, all ex officio: The Administrator, as Chairman, the Deputy Administrator, as Vice Chairman, the Secretary of the Treasury, the Secretary of Commerce, and one other member who shall be designated from time to time by the President from among the officers of the United States who are required to be appointed by and with the advice and consent of the Senate. Either of the said Secretaries and the said designee of the President may designate an officer of his department or agency to act in his stead as a member of the Loan Policy Board with respect to any matter or matters.

§ 5. FUNCTIONS TRANSFERRED TO ADMINISTRATOR

All functions of the Board of Directors of the Reconstruction Finance Corporation, including those of the members and chairman of the said Board and including those with respect to the management of the Corporation, are hereby transferred to the Administrator, except as the said functions are otherwise vested by the provisions of sections 6 and 7 of this reorganization plan.

§ 6. General Policies

The Loan Policy Board shall establish general policies (particularly with reference to the public interest involved in the granting and denial of applications for financial assistance by the Corporation and with reference to the coordination of the functions of the Corporation with other activities and policies of the Government) which shall govern the granting and denial of applications for financial assistance by the Corporation.

§ 7. Financial Assistance Procedure

All applications for loans or other financial assistance totaling in excess of $100,000 to any borrower shall be referred to a board of review, and such board shall submit a recommendation in each case to the Administrator. Any board of review shall consist of not less than five persons who shall be designated by the Administrator from among personnel of the Corporation having major responsibilities assigned to them and who shall receive no additional compensation for service hereunder. Whenever any loan or purchase of obligation shall be approved or declined in any case wherein the board of review has recommended otherwise, the Administrator shall place in the records of the Corporation a memorandum setting forth his reasons for granting or denying the financial assistance involved.

§ 8. Delegation of Functions

The Administrator may from time to time make such provisions as he shall deem appropriate with respect to the performance by any officer, employee, or administrative unit under his jurisdiction of any function of the Administrator under the provisions of this reorganization plan.

§ 9. Abolition of Present Board

The Board of Directors of the Reconstruction Finance Corporation, including the offices of the members of such Board, is hereby abolished, and the Administrator shall provide for winding up any outstanding affairs of the said Board not otherwise provided for in this reorganization plan.

§ 10. Effective Date

Sections 4 to 9, inclusive, of this reorganization plan shall become effective when, and not until, the Administrator first appointed hereunder enters upon office pursuant to the provisions of this reorganization plan.

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1951, prepared in accordance with the Reorganization Act of 1949.

The reorganization plan provides strengthened administration of the Reconstruction Finance Corporation by placing in a single Administrator of the Reconstruction Finance Corporation the functions of the present Board of Directors, except those that are specifically set forth and assigned to a new Loan Policy Board and to a board of review.

The Administrator is thus made the executive head of the Corporation with major responsibility and authority over the administration of the Government programs carried out by the Corporation.

At the same time that this plan provides strengthened administration for the Corporation, it also provides certain additional safeguards with respect to loan policy and to specific loan applications. Under the reorganization plan, the Loan Policy Board promulgates general policies which shall govern the granting and denial of applications for financial assistance by the Corporation. The reorganization plan likewise includes new provisions for ensuring that all loan applications are handled in accordance with established policy.

In addition to providing strengthened administration of the Corporation and additional safeguards with respect to loan policy and the approval of specific loan applications, the reorganization plan provides the basis, by virtue of the composition of the Loan Policy Board, for better coordination of the Corporation's loan policies with other policies, programs, and activities of the Government. The reorganization plan provides that this Board shall have five members, all ex officio. These are the Administrator of the Corporation, the Deputy Administrator, the Secretary of the Treasury, the Secretary of Commerce, and one additional member to be designated from time to time by the President from among officials of the Government who are required to be appointed by the President and confirmed by the Senate. The participation of these officials will facilitate the development of loan policies consistent with the requirements of other broad programs of the Government.

Especially important is the participation of the Secretary of Commerce who, as head of the Department of Commerce, administers most of the Government programs for nonfinancial aids to business. Giving him a voice on the Loan Policy Board will aid in bringing under common policies the financial aids to business administered by the Corporation and the nonfinancial aids carried on in the Department of Commerce. Government aid to small and independent business should be particularly benefited by the participation of the Secretary of Commerce.

Specifically, the provision in the reorganization plan for a financial-assistance procedure governing the processing of applications in excess of $100,000 to any borrower strengthens and gives statutory prescription to an administrative arrangement already existing in the Corporation. In handling such loans under the reorganization plan, applications will be referred for analysis and recommendation to a board of review composed of not less than five employees of the Corporation. Whenever the Administrator approves or denies an application for financial assistance on which a board of review has recommended otherwise, he must set forth, in a memorandum to be placed in the files of the Corporation, the reasons for his action. This procedure is provided in order to assure that all applications for loans involving large sums are fully analyzed by the technical staff of the Corporation and that the recommendations of the staff are fully available to the Administrator when acting finally upon such applications.

The reorganization plan continues the Reconstruction Finance Corporation as a separate corporate entity in the executive branch of the Government. Those functions which are currently performed by the Corporation or any of its agencies or officers pursuant to a delegation or assignment of functions made by the President will be subject to termination or modification of any such delegation by the President.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1951 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949. I also have found and hereby declare that by reason of these reorganizations it is necessary to include in the reorganization plan provisions for the appointment and compensation of the Administrator and Deputy Administrator of the Reconstruction Finance Corporation. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers of the executive branch of the Government.

The taking effect of the reorganization included in Reorganization Plan No. 1 of 1951 may not in itself result in substantial immediate savings. However, the important objective of achieving the maximum effectiveness in the administration of the Government's lending programs to aid business will be advanced. Increased effectiveness will in turn produce indirect savings. An itemization of these savings is not practicable.

The reorganization plan is especially important at this time of national emergency. It will strengthen the administration of the Reconstruction Finance Corporation and at the same time provide additional safeguards with respect to loan policy and the approval of individual loans. It will make possible the more effective coordination of the Government's general loan policies. I strongly urge the approval of the reorganization plan as a means of achieving these objectives.

HARRY S. TRUMAN.

THE WHITE HOUSE, February 19, 1951.

REORGANIZATION PLAN NO. 1 OF 1952

Effective Mar. 14, 1952, 17 F.R. 2243, 66 Stat. 823.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, January 14, 1952, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949 [see section 901 et seq. of this title].

BUREAU OF INTERNAL REVENUE

§ 1. ABOLITION OF EXISTING OFFICES

There are abolished the offices of Assistant Commissioner, Special Deputy Commissioner, Deputy Commissioner, Assistant General Counsel for the Bureau of Internal Revenue, Collector, and Deputy Collector, provided for in sections 3905, 3910, 3915, 3931, 3941, and 3990, respectively, of the Internal Revenue Code [I.R.C. 1939]. The provisions of the foregoing sentence shall become effective with respect to each office abolished thereby at such time as the Secretary of the Treasury shall specify, but in no event later than December 1, 1952. The Secretary of the Treasury shall make such provisions as he shall deem necessary respecting the winding up of the affairs of any officer whose office is abolished by the provisions of this section.

§ 2. ESTABLISHMENT OF NEW OFFICES

(a) New offices are hereby established in the Bureau of Internal Revenue as follows: (1) three offices each of which shall have the title of "Assistant Commissioner of Internal Revenue"; (2) so many offices, not in excess of twenty-five existing at any one time, as the Secretary of the Treasury shall from time to time determine, each of which shall have the title of "district commissioner of internal revenue"; and (3) so many other offices, not in excess of seventy existing at any one time, and with such title or titles, as the Secretary of the Treasury shall from time to time determine.

(b) There is hereby established in the Department of the Treasury a new and additional office which shall have the title "Assistant General Counsel".

§ 3. APPOINTMENT AND COMPENSATION

Each Assistant Commissioner and district commissioner, the Assistant General Counsel, and each other officer provided for in section 2 of this reorganization plan shall be appointed by the Secretary of the Treasury under the classified civil service and shall receive compensation which shall be fixed from time to time pursuant to the classification laws, as now or hereafter amended. (As amended by Act June 28, 1955, ch. 189, § 12(c)(19), 69 Stat. 182).

§ 4. TRANSFER OF FUNCTIONS

There are transferred to the Secretary of the Treasury the functions, if any, that have been vested by statute in officers, agencies, or employees of the Bureau of Internal Revenue of the Department of the Treasury since the effective date of Reorganization Plan Numbered 26 of 1950 (15 F.R. 4935).

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1952, prepared in accordance with the Reorganization Act of 1949 and providing for reorganizations in the Bureau of Internal Revenue of the Department of the Treasury.

A comprehensive reorganization of that Bureau is necessary both to increase the efficiency of its operations and to provide better machinery for assuring honest and impartial administration of the internal revenue laws. The reorganization plan transmitted with this message is essential to accomplish the basic changes in the structure of the Bureau of Internal Revenue which are necessary for the kind of comprehensive reorganization that is now required.

By bringing additional personnel in the Bureau of Internal Revenue under the merit system, Reorganization Plan No. 1 likewise removes what the Commission on Organization of the Executive Branch of the Government described as "one of the chief handicaps to effective organization of the Department * * *."

It is my determination to maintain the highest standards of integrity and efficiency in the Federal service. While those standards have been observed faithfully by all but a relatively few public servants, the betrayal of their trust by those few demands the strongest corrective action.

The most vigorous efforts are being and will continue to be made to expose and punish every Government employee who misuses his official position. But we must do even more than this. We must correct every defect in organization that contributes to inefficient management and thus affords the opportunity for improper conduct.

The thorough reorganization of the Bureau of Internal Revenue which I propose will be of great help in accomplishing all of these ends. It is an integral part of a program to prevent improper conduct in public service, to protect the Government from insidious influence peddlers and favor seekers, to expose and punish wrong-doers, and to improve the management and efficiency of the executive branch.

I am confident that the Congress and the public are as deeply and earnestly concerned as I am that the public business be conducted entirely upon a basis of fairness, integrity, and efficiency. I therefore hope that the Congress will give speedy approval to Reorganization Plan No. 1, in order that we may move ahead rapidly in to achieving the reorganization of the Bureau of Internal Revenue.

The task of collecting the internal revenue has expanded enormously within the past decade. This expansion has been occasioned by the necessary additional taxation brought on by World War II and essential post-war programs. In fiscal year 1940, tax collections made by the Bureau of Internal Revenue were slightly over 5⅓ billions of dollars; in 1951, they totaled almost 50½ billions. In 1940, 19 million tax returns were filed; in 1951, 82 million. In 1940, there were 22,000 employees working for the Bureau; in 1951, there were 57,000.

Throughout this tremendous growth, the structure of the revenue-collecting organization has remained substantially unchanged. The present field structure of the Bureau of Internal Revenue is comprised of more than 200 field offices which report directly to Washington. Those 200 offices carry out their functions through more than 2,000 suboffices and posts of duty throughout the country. The Washington office now provides operating supervision, guidance, and control over the principal field offices through 10 separate divisions, thus further adding to the complexities of administration.

Since the end of World War II, many procedural improvements have been made in the Bureau's operations. The use of automatic machines has been greatly increased. The handling of cases has been simplified. One major advance is represented by the recently completed arrangements to expedite criminal prosecutions in tax-fraud cases. In these cases, field representatives of the Bureau of Internal Revenue will make recommendations for criminal prosecutions directly to the Department of Justice. These procedural changes have increased the Bureau's efficiency and have made it possible for the Bureau to carry its enormously increased workload. However, improvements in procedure cannot meet the need for organizational changes.

Part of the authority necessary to make a comprehensive reorganization was provided in Reorganization Plan No. 26 of 1950, which was one of several uniform plans giving department heads fuller authority over internal organizations throughout their departments. The studies of the Secretary of the Treasury have culminated since that time in a plan for extensive reorganization and modernization of the Bureau. However, his existing authority is not broad enough to permit him to effectuate all of the basic features of the plan he has developed.

The principal barrier to effective organization and administration of the Bureau of Internal Revenue which plan No. 1 removes is the archaic statutory office of collector of internal revenue. Since the collectors are not appointed and cannot be removed by the Commissioner of Internal Revenue or the Secretary of the Treasury and since the collectors must accommodate themselves to local political situations, they are not fully responsive to the control of their superiors in the Treasury Department. Residence requirements prevent moving a collector from one collection district to another, either to promote impartiality and fairness or to advance collectors to more important positions. Uncertainties of tenure add to the difficulty of attracting to such offices persons who are well versed in the intricacies of the revenue laws and possessed of broadgaged administrative ability.

It is appropriate and desirable that major political offices in the executive branch of the Government be filled by persons who are appointed by the President by and with the advice and consent of the Senate. On the other hand, the technical nature of much of the Government's work today makes it equally appropriate and desirable that positions of other types be in the professional career service. The administration of our internal-revenue laws at the local level calls for positions in the latter category.

Instead of the present organization built around the offices of politically appointed collectors of internal revenue, plan No. 1 will make it possible for the Secretary of the Treasury to establish not to exceed 25 district offices. Each of these offices will be headed by a district commissioner who will be responsible to the Commissioner of Internal Revenue and will have full responsibility for administering all internal-revenue activities within a designated area. In addition, all essential collection, enforcement, and appellate functions can be provided for in each local area and under one roof so far as is practicable. It is not proposed to discontinue any essential facilities which now exist in any local areas. Rather, the facilities will be extended and the service to taxpayers improved. These new arrangements should make it possible for the individual taxpayer to conduct his business with the Bureau much more conveniently and expeditiously.

In addition to making possible greatly improved service to the taxpayer, the establishment of the district offices will provide opportunity in the field service of the Bureau of Internal Revenue for the development of high-caliber administrators with experience in all phases of revenue administration. These offices will be the backbone of a modern, streamlined pattern of organization and operations with clear and direct channels of responsibility and supervision from the lowest field office to the Commissioner, and through him to the Secretary of the Treasury. The creation of this new framework of district offices is a necessary step in carrying out the overall reorganization of the Bureau.

Plan No. 1 also makes it possible to provide a new framework of supervisory offices in the headquarters of the Bureau of Internal Revenue. Under plan No. 1, the offices of Deputy Commissioner, Special Deputy Commissioner, and Assistant Commissioner are abolished. Three Assistant Commissioners, all in the classified civil service, are authorized, and will be available, to perform such functions as may be assigned to them. The intention of the Secretary of the Treasury under the comprehensive reorganization is to utilize one Assistant Commissioner to assist the Commissioner of Internal Revenue in supervising the operations of the district offices, another Assistant Commissioner to aid in the preparation of technical rulings and decisions, and the third Assistant Commissioner to supervise for the Commissioner the inspection activities of the Bureau.

Two additional advantages will be obtained when the reorganization around this new framework is completed.

First, the strong inspection service which the Secretary is establishing will keep the work of the Bureau under close and continuous observation. Working under the direct control of the Commissioner of Internal Revenue, it will be responsible for promptly detecting and investigating any irregularities.

Second, the new pattern of organization will strengthen and clarify lines of responsibility throughout the Bureau, thus simplifying and making more effective and uniform the management control of the organization. This is essential in any effort to provide our principal revenue collection agency the best possible administration.

In order to eliminate Presidential appointment and senatorial confirmation with respect to the Assistant General Counsel for the Bureau of Internal Revenue, and in order to provide a method of appointment comparable to that obtaining in the case of other assistant general counsel of the Department of the Treasury, plan No. 1 abolishes that office and provides in lieu thereof a new office of Assistant General Counsel with appointment under the classified civil service.

The success of the reorganization of the Bureau of Internal Revenue will to a considerable extent depend upon the ability to attract the best qualified persons to the key positions throughout the Bureau. In order to do so, it is necessary to make provision for more adequate salaries for such key positions. Plan No. 1 establishes in the Bureau of Internal Revenue a maximum of 70 offices with titles determined by the Secretary of the Treasury. Those offices are in addition to the offices with specific titles also provided for in plan No. 1 and to any positions established under other authority vested in the Department of the Treasury. The compensation of these officials will be fixed under the Classification Act of 1949, as amended, but without regard to the numerical limitations on positions set forth in section 505 of that act. This provision will enable the Chairman of the Civil Service Commission, or the President, as the case may be, to fix rates of pay for those offices in excess of the rates established in the Classification Act of 1949 for grade GS-15 whenever the standards of the classification laws so permit.

All organizational changes under plan No. 1 will be put into effect as soon as it is possible to do so without disrupting the continued collection of revenue. Plan No. 1 will in any event be effective in its entirety no later than December 1, 1952.

The taking effect of the reorganizations provided for in Reorganization Plan No. 1 of 1952 will make possible many benefits in improved organization and operations which may be expected to produce substantial savings in future years. Those savings should not be expected to be reflected in an immediate reduction in expenditure by the Bureau of Internal Revenue but in an improved service to the public and a more efficient collection of revenue.

It should be emphasized that abolition by plan No. 1 of the offices of collectors and others will in no way prejudice any right or potential right of any taxpayer. The abolition of offices by plan No. 1 will not abolish any rights, privileges, powers, duties, immunities, liabilities, obligations, or other attributes of those offices except as they relate to matters of appointment, tenure, and compensation inconsistent with plan No.

1. Under the Reorganization Act of 1949, all of these attributes of office will attach to the office to which the functions of the abolished office are delegated by the Secretary of the Treasury.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1952 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949.

I have found and hereby declare that it is necessary to include in the accompanying Reorganization Plan No. 1, by reason of reorganizations made thereby, provisions for the appointment and compensation of the officers specified therein. The rates of compensation fixed for these officers are not in excess of those which I have found to prevail in respect of comparable officers in the executive branch.

I cannot emphasize too strongly the importance which should be attached to the reorganization plan that I am now transmitting to the Congress. The fair and efficient administration of the Federal internal-revenue laws is of vital concern to every citizen. All of us have a right to insist that the Bureau of Internal Revenue be provided with the finest organization that can be devised. All of us are entitled to have that organization manned by personnel who get their jobs and keep them solely because of their own integrity and competence. This reorganization plan will be a major step in achieving those objectives.

HARRY S. TRUMAN.

THE WHITE HOUSE, January 14, 1952.

REORGANIZATION PLAN NO. 1 OF 1953

Eff. Apr. 11, 1953, 18 F.R. 2053, 67 Stat. 631

Prepared by the President and transmitted to the Senate and to the House of Representatives in Congress assembled, March 12, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

§ 1. CREATION OF DEPARTMENT; SECRETARY

There is hereby established an executive department, which shall be known as the Department of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Department). There shall be at the head of the Department a Secretary of Health, Education, and Welfare (hereafter in this reorganization plan referred to as the Secretary), who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate now or hereafter prescribed by law for the heads of executive departments. The Department shall be administered under the supervision and direction of the Secretary.

§ 2. UNDER SECRETARY AND ASSISTANT SECRETARIES

There shall be in the Department an Under Secretary of Health, Education, and Welfare and two Assistant Secretaries of Health, Education, and Welfare, each of whom shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter provided by law for under secretaries and assistant secretaries, respectively, of executive departments. The Under Secretary (or, during the absence or disability of the Under Secretary or in the event of a vacancy in the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

§ 3. SPECIAL ASSISTANT

[Section provided for the appointment of Special Assistant to the Secretary (Health and Medical Affairs), and was repealed by Pub. L. 90-83, § 10(c), Sept. 11, 1967, 81 Stat. 224.]

§ 4. COMMISSIONER OF SOCIAL SECURITY

There shall be in the Department a Commissioner of Social Security who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions concerning social security and public welfare as the Secretary may prescribe, and shall receive compensation at the rate now or hereafter fixed by law for grade GS-18 of the general schedule established by the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of this title].

§ 5. TRANSFERS TO THE DEPARTMENT

All functions of the Federal Security Administrator are hereby transferred to the Secretary. All agencies of the Federal Security Agency, together with their respective functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available), and all other functions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds (available or to be made available) of the Federal Security Agency are hereby transferred to the Department.

§ 6. PERFORMANCE OF FUNCTIONS OF THE SECRETARY

The Secretary may from time to time make such provisions as the Secretary deems appropriate authorizing the performance of any of the functions of the Secretary by any other officer, or by any agency or employee, of the Department.

§ 7. ADMINISTRATIVE SERVICE

In the interest of economy and efficiency the Secretary may from time to time establish central administrative services in the fields of procurement, budgeting, accounting, personnel, library, legal, and other services and activities common to the several agencies of the Department; and the Secretary may effect such transfers within the Department of the personnel employed, the property and records used or held, and the funds available for use in connection with such administrative-service activities as the Secretary may deem necessary for the conduct of any services so established: *Provided*, That no professional or substantive function vested by law in any officer shall be removed from the jurisdiction of such officer under this section.

§ 8. ABOLITIONS

The Federal Security Agency (exclusive of the agencies thereof transferred by sec. 5 of this reorganization plan), the offices of Federal Security Administrator and Assistant Federal Security Administrator created by Reorganization Plan No. I [of 1939] (53 Stat. 1423) the two offices of assistant heads of the Federal Security Agency created by Reorganization Plan No. 2 of 1946 (60 Stat. 1095) and the office for Commissioner for Social Security created by section 701 of the Social Security Act, as amended (64 Stat. 558) [former section 901 of Title 42], are hereby abolished. The Secretary shall make such provisions as may be necessary in order to wind up any outstanding affairs of the Agency and offices abolished by this section which are not otherwise provided for in this reorganization plan.

§ 9. INTERIM PROVISIONS

The President may authorize the persons who immediately prior to the time this reorganization plan takes effect occupy the offices of Federal Security Administrator, Assistant Federal Security Administrator, assistant heads of the Federal Security Agency, and Commissioner for Social Security to act as Secretary, Under Secretary, and Assistant Secretaries of Health, Education, and Welfare, and as Commissioner of Social Security, respectively, until those offices are filled by appointment in the manner provided by sections 1, 2, and 4 of this reorganization plan, but not for a period of more than 60 days. While so acting, such persons shall receive compensation at the rates provided by this reorganization plan for the offices the functions of which they perform.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1953, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended.

In my message of February 2, 1953, I stated that I would send to the Congress a reorganization plan defining a new administrative status for Federal activities in health, education, and social security. This plan carries out that intention by creating a Department of Health, Education, and Welfare as one of the executive departments of the Government and by transferring to it the various units of the Federal Security Agency. The Department will be headed by a Secretary of Health, Education, and Welfare, who will be assisted by an Under Secretary and two Assistant Secretaries.

The purpose of this plan is to improve the administration of the vital health, education, and social-security functions now being carried on in the Federal Security Agency by giving them departmental rank. Such action is demanded by the importance and magnitude of these functions, which affect the well-being of millions of our citizens. The programs carried on by the Public Health Service include, for example, the conduct and promotion of research into the prevention and cure of such dangerous ailments as cancer and heart disease. The Public Health Service also administers payments to the States for the support of their health services and for urgently needed hospital construction. The Office of Education collects, analyzes, and distributes to school administrators throughout the country information relating to the organization and management of educational systems. Among its other functions is the provision of financial help to school districts burdened by activities of the United States Government. State assistance to the aged, the blind, the totally disabled, and dependent children is heavily supported by grants-in-aid administered through the Social Security Administration. The old-age and survivors insurance system and child development and welfare programs are additional responsibilities of that Administration. Other offices of the Federal Security Agency are responsible for the conduct of Federal vocational rehabilitation programs and for the enforcement of food and drug laws.

There should be an unremitting effort to improve those health, education, and social-security programs which have proved their value. I have already recommended the expansion of the social-security system to cover persons not now protected, the continuation of assistance to school districts whose population has been greatly increased by the expansion of defense activities, and the strengthening of our food and drug laws.

But good intent and high purpose are not enough; all such programs depend for their success upon efficient, responsible administration. I have recently taken action to assure that the Federal Security Administrator's views are given proper consideration in executive councils by inviting her to attend meetings of the Cabinet. Now the establishment of the new Department provided for in Reorganization Plan No. 1 of 1953 will give the needed additional assurance that these matters will receive the full consideration they deserve in the whole operation of the Government.

This need has long been recognized. In 1923, President Harding proposed a Department of Education and Welfare, which was also to include health functions. In 1924, the Joint Committee on Reorganization recommended a new department similar to that suggested by President Harding. In 1932, one of President Hoover's reorganization proposals called for the concentration of health, education, and recreational activities in a single executive department. The President's Committee on Administrative Management in 1937 recommended the placing of health, education, and social-security functions in a Department of Social Welfare. This recommendation was partially implemented in 1939 by the creation of the Federal Security Agency—by which action the Congress indicated its approval of the grouping of these functions in a single agency. A new department could not be proposed at that time because the Reorganization Act of 1939 prohibited the creation of additional executive departments. In 1949, the Commission on Organization of the Executive Branch of the Government proposed the creation of a department for social security and education.

The present plan will make it possible to give the officials directing the Department titles indicative of their responsibilities and salaries comparable to those received by their counterparts in other executive departments. As the Under Secretary of an executive department, the Secretary's principal assistant will be better equipped to give leadership in the Department's organization and management activities, for which he will be primarily responsible. The plan opens the way to further administrative improvement by authorizing the Secretary to centralize services and activities common to the several agencies of the Department. It also establishes a uniform method of appointment for the heads of the three major constituent agencies. At present, the Surgeon General and the Commissioner of Education are appointed by the President and confirmed by the Senate, while the Commissioner for Social Security is appointed by the Federal Security Administrator. Hereafter, all three will be Presidential appointees subject to Senate confirmation.

I believe, and this plan reflects my conviction, that these several fields of Federal activity should continue within the framework of a single department. The plan at the same time assures that the Office of Education and the Public Health Service retain the professional and substantive responsibilities vested by law in those agencies or in their heads. The Surgeon General, the Commissioner of Education, and the Commissioner of Social Security will all have direct access to the Secretary.

There should be in the Department an Advisory Committee on Education, made up of persons chosen by the Secretary from outside the Federal Government, which would advise the Secretary with respect to the educational programs of the Department. I recommend the enactment of legislation authorizing the defrayal of the expenses of this Committee. The creation of such a Committee as an advisory body to the Secretary will help insure the maintenance of responsibility for the public educational system in State and local governments while preserving the national interest in education through appropriate Federal action.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that by reason of these reorganizations, it is necessary to include in the reorganization plan provisions for the appointment and compensation of the new officers specified in sections 1, 2, 3, and 4 of the reorganization plan. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

Although the effecting of the reorganizations provided for in the reorganization plan will not in itself result in immediate savings, the improvement achieved in administration will in the future allow the performance of necessary services at greater savings than present operations would permit. An itemization of these savings in advance of actual experience is not practicable.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, March 12, 1953.

REORGANIZATION PLAN NO. 2 OF 1953

Eff. June 4, 1953, 18 F.R. 3219, 67 Stat. 633

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 25, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

DEPARTMENT OF AGRICULTURE

§ 1. TRANSFER OF FUNCTIONS TO THE SECRETARY

(a) Subject to the exceptions specified in subsection (b) of this section, there are hereby transferred to the Secretary of Agriculture all functions not now vested in him of all other officers, and of all agencies and employees, of the Department of Agriculture.

(b) This section shall not apply to the functions vested by the Administrative Procedure Act [sections 551 et seq. and 701 et seq. of this title] in hearing examiners employed by the Department of Agriculture nor to the functions of (1) the corporations of the Department of Agriculture, (2) the boards of directors and officers of such corporations, (3) the Advisory Board of the Commodity Credit Corporation, or (4) the Farm Credit Administration or any agency, officer, or entity of, under, or subject to the supervision of the said Administration.

§ 2. ASSISTANT SECRETARIES OF AGRICULTURE

Two additional Assistant Secretaries of Agriculture shall be appointed by the President, by and with the advice and consent of the Senate. Each such assistant secretary shall perform such functions as the Secretary of Agriculture shall, from time to time, prescribe and each shall receive compensation at the rate prescribed by law for Assistant Secretaries of executive departments.

§ 3. ADMINISTRATIVE ASSISTANT SECRETARY

An Administrative Assistant Secretary of Agriculture shall be appointed, with the approval of the President, by the Secretary of Agriculture under the classified civil service, and shall perform such functions as the Secretary of Agriculture shall, from time to time, prescribe. The provisions of the item numbered (1) of the third proviso under the heading "General Provisions" appearing in chapter XI of the Third Supplemental Appropriation Act, 1952, approved June 5, 1952 (66 Stat. 121) [former section 517a of this title], are hereby made applicable to the position of Administrative Assistant Secretary of Agriculture.

§ 4. DELEGATION OF FUNCTIONS

(a) The Secretary of Agriculture may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of Agriculture of any function of the Secretary, including any function transferred to the Secretary by the provisions of this reorganization plan.

(b) To the extent that the carrying out of subsection (a) of this section involves the assignment of major functions or major groups of functions to major constituent organizational units of the Department of Agriculture, now or hereafter existing, or to the heads or other officers thereof, and to the extent deemed practicable by the Secretary, he shall give appropriate advance public notice of delegations of functions proposed to be made by him and shall afford appropriate opportunity for interested persons and groups to place before the Department of Agriculture their views with respect to such proposed delegations.

(c) In carrying out subsection (a) of this section the Secretary shall seek to simplify and make efficient the operation of the Department of Agriculture, to place the administration of farm programs close to the State and local levels, and to adapt the administration of the programs of the Department to regional, State, and local conditions.

§ 5. INCIDENTAL TRANSFERS

The Secretary of Agriculture may from time to time effect such transfers within the Department of Agriculture of any of the records, property, and personnel affected by this reorganization plan and such transfers of unexpended balances (available or to be made available for use in connection with any affected function or agency) of appropriations, allocations, and other funds of such Department, as he deems necessary to carry out the provisions of this reorganization plan; but such unexpended balances so transferred shall be used only for the purposes for which such appropriation was originally made.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1953, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganizations in the Department of Agriculture.

Reorganization Plan No. 2 of 1953 is designed to make it possible for the Secretary of Agriculture to simplify and improve the internal organization of the Department of Agriculture. It is substantially in accord with the recommendations made in 1949 by the Commission on Organization of the Executive Branch of the Government.

With certain exceptions, Reorganization Plan No. 2 of 1953 transfers to the Secretary of Agriculture the functions now vested by law in other officers, and in the agencies and employees, of the Department. It allows the Secretary to authorize any other officer, agency, or employee of the Department to perform any function vested in the Secretary. He is directed to utilize this delegation authority in such a way as to further certain objectives set forth in the reorganization plan. Those objectives are to simplify and make effective the operation of the Department of Agriculture, to place the administration of farm programs close to the State and local levels, and to adapt the administration of the programs of the Department to regional, State, and local conditions. Further, to the extent deemed practicable by the Secretary, he is required to give appropriate advance public notice and to afford appropriate opportunity for interested persons and groups to present to the Department of Agriculture their views on such proposed delegations of the Secretary as involve assignments of major functions or major groups of functions to major constituent organizational units of the Department or their officers.

Reorganization Plan No. 2 of 1953 will permit the establishment of a clearer line of responsibility and authority from the President through the Secretary of Agriculture down to the lowest level of operations in the Department. It will make the Secretary responsible under law for activities within his Department for which he is now in fact held accountable by the President, the Congress, and the public. Also, it will enable the Secretary, from time to time, to adjust the organization of the Department in order to achieve continuous improvement in operations to meet changing conditions.

The Congress has in the past repeatedly followed the sound policy of vesting functions directly in department heads so that they can be held accountable for the performance of their agencies. In acting upon recommendations of the Commission on Organization of the Executive Branch of the Government, the Congress approved, in 1949 and 1950, a series of statutes and reorganization plans which applied that policy to all the executive departments except the Department of Defense and the Department of Agriculture. While some laws vest important functions directly in the Secretary of Agriculture, others place major functions in subordinate officers and agencies of the Department. By transferring to the Secretary the latter functions, with certain exceptions, the reorganization plan corrects the present patchwork assignment of statutory functions in the Department.

The functions excepted from transfer to the Secretary are the functions of hearing examiners under the Administrative Procedure Act; of the corporations of the Department, including their boards of directors and officers; of the Advisory Board of the Commodity Credit Corporation; and of the Farm Credit Administration and the banks, corporations, and associations supervised by it.

The exception of the hearing examiners is in accordance with the intent of the Administrative Procedure Act, and is consistent with the status of hearing examiners in other departments and agencies.

The corporations of the Department, together with their boards of directors and officers, are excepted because they have a different legal status than other constituent agencies of the Department. Bodies corporate have independent legal personalities and act in their own name rather than in the name of the Department of Agriculture or of the United States.

The same reasons which prompt the exception of the corporations of the Department make desirable the exception of the entities supervised by the Farm Credit Administration. The Farm Credit Administration itself is also excepted, since it is anticipated that general legislation covering this field will be recommended to the Congress.

The Department of Agriculture now has only one Assistant Secretary. Reorganization Plan No. 2 of 1953 provides the Secretary with two more Assistant Secretaries and an Administrative Assistant Secretary to aid him in supervising the Department. The Assistant Secretaries will be appointed by the President, by and with the advice and consent of the Senate. The Administrative Assistant Secretary will be appointed under the classified civil service by the Secretary, with the approval of the President. These methods of appointment are similar to those prevailing in other executive departments.

The Secretary will prescribe the functions to be performed by these new assistants. It is his intention to have the new Assistant Secretaries aid him in providing closer policy and program supervision over the Department of Agriculture, and to have the new Administrative Assistant Secretary perform substantially the same role as that performed by the administrative assistant secretaries in other departments. Thus, the new officers will assist the Secretary in giving continuous attention to matters which are essential for the most efficient and economical operation of the Department.

The Secretary of Agriculture has advised me that the 2 new offices of Assistant Secretary of Agriculture, and the 1 new office of Administrative Assistant Secretary of Agriculture, provided for in the reorganization plan, will merely replace existing positions in the Department, and that hence the creation of these offices will not result in any net increase in the personnel in the Department of Agriculture. He has further advised me that both the number of officers and employees in the Office of the Secretary and the aggregate of their salaries will be less than those existing prior to January 1, 1953.

The Secretary of Agriculture, aided by the Interim Agricultural Advisory Committee, has been studying the organization and functions of the Department of Agriculture. Recently the Secretary rearranged the organizational units of the Department so as to form (in addition to the Office of the Solicitor and a reorganized Foreign Agricultural Service) four major groups of agencies, each with a supervising head to whom the agencies within the group report. By so doing, the Secretary sought both to reduce the number of separate officials reporting to him and to improve coordination within the Department. Reorganization Plan No. 2 of 1953 will make it possible for the Secretary to make further internal adjustments within the Department as study and experience identify opportunities for improvement. It will thus further the better management of the affairs of the Department of Agriculture.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of two Assistant Secretaries of Agriculture and an Administrative Assistant Secretary of Agriculture. The rates of compensation fixed for these officers are those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

Reductions in expenditures will result from reorganizations of the Department of Agriculture made possible by the taking effect of Reorganization Plan No. 2 of 1953, but such reductions cannot be itemized at this time.

I recommend that the Congress allow the accompanying reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, March 25, 1953.

REORGANIZATION PLAN NO. 3 OF 1953

Eff. June 12, 1953, 18 F.R. 3375, 67 Stat. 634

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 2, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

OFFICE OF DEFENSE MOBILIZATION

§ 1. ESTABLISHMENT OF OFFICE

(a) There is hereby established in the Executive Office of the President a new agency which shall be known as the Office of Defense Mobilization, hereinafter referred to as the "Office."

(b) There shall be at the head of the Office a Director of the Office of Defense Mobilization, hereinafter referred to as the "Director," who shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of $22,500 per annum.

(c) There shall be in the Office a Deputy Director of the Office of Defense Mobilization, who shall be appointed by the President, by and with the advice and consent of the Senate, shall receive compensation at the rate of $17,500 per annum, shall perform such functions as the Director shall designate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

§ 2. TRANSFER OF FUNCTIONS

There are hereby transferred to the Director—

(a) All functions of the Chairman of the National Security Resources Board, including his functions as a member of the National Security Council, but excluding the functions abolished by section 5(a) of this reorganization plan.

(b) All functions under the Strategic and Critical Materials Stock Piling Act, as amended [section 98 et seq. of Title 50], vested in the Secretaries of the Army, Navy, Air Force, and Interior or in any of them or in any combination of them, including the functions which were vested in the Army and Navy Munitions Board by the item numbered (2) in section 6(a) of the said Act (60 Stat. 598) [section 98e(2) of Title 50], but excluding functions vested in the Secretary of the Interior by section 7 of the said Act [section 98f of Title 50].

(c) The functions vested in the Munitions Board by section 4(h) of the Commodity Credit Corporation Charter Act, as amended [section 714b(h) of Title 15], and by section 204(e) of the Federal Property and Administrative Services Act of 1949 [section 485(c) of Title 40].

(d) All functions now vested by any statute in the Director of Defense Mobilization or in the Office of Defense Mobilization provided for in Executive Order Numbered 10193 (15 F.R. 9031) [set out as a note under section 2153 of Title 50, Appendix].

§ 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

(a) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the Office, of any function of the Director, exclusive of the function of being a member of the National Security Council.

(b) When authorized by the Director, any function transferred to him by the provisions of this reorganization plan (exclusive of the function of being a member of the National Security Council) may be performed by the head of any agency of the executive branch of the Government or, subject to the direction and control of any such agency head, by such officers, employees, and organizational units under the jurisdiction of such agency head as such agency head may designate.

(c) In addition to the representatives who by virtue of the last sentence of section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended [section 98a (a) of Title 50], and section 2 of this reorganization plan are designated to cooperate with the Director, the Secretary of Defense, the Secretary of the Interior, and the heads of such other agencies having functions regarding strategic or critical materials as the Director shall from time to time designate, shall each designate representatives who shall similarly cooperate with the Director.

§ 4. RECORDS, PROPERTY, PERSONNEL, AND FUNDS

There shall be transferred with the functions transferred by this reorganization plan from the Chairman of the National Security Resources Board and the Department of Defense, respectively, so much of the records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, used, held, employed, available, or to be made available in connection with the said functions, as the Director shall determine to be required for the performance of the transferred functions by the Office, but all transfers from the Department of Defense under the foregoing provisions of this section shall be subject to the approval of the Secretary of Defense.

§ 5. ABOLITION OF FUNCTIONS

(a) The functions of the Chairman of the National Security Resources Board under section 18 of the Universal Military Training and Service Act [section 468 of title 50, Appendix], as affected by Reorganization Plan numbered 25 of 1950 (64 Stat. 1280), with respect to being consulted by and furnishing advice to the President as required by that section, are hereby abolished.

(b) So much of the functions of the Secretary of Defense under section 202(b) of the National Security Act of 1947, as amended [section 171a(b) of this title], as consists of direction, authority, and control over functions transferred by this reorganization plan is hereby abolished.

(c) Any functions which were vested in the Army and Navy Munitions Board or which are vested in the Munitions Board with respect to serving as agent through which the Secretaries of the Army, Navy, Air Force, and Interior jointly act, under section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended, are hereby abolished.

§ 6. ABOLITION OF NATIONAL SECURITY RESOURCES BOARD

The National Security Resources Board (established by the National Security Act of 1947, 61 Stat. 499 [section 404 of Title 50]), including the offices of Chairman and Vice Chairman of the National Security Resources Board, is hereby abolished, and the Director shall provide for winding up any outstanding affairs of the said Board or offices not otherwise provided for in this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1953. prepared in accordance with the provisions of the Reorganization Act of 1949, as amended.

The reorganization plan is designed to achieve two primary objectives: The first is to improve the organization of the Executive Office of the President; the second is to enable one Executive Office agency to exercise strong leadership in our national mobilization effort, including both current defense activities and readiness for any future national emergency.

The National Security Resources Board was established by the National Security Act of 1947 to advise the President concerning various aspects of future military, industrial, and civilian mobilization. The areas of responsibility assigned to the Board included the use of national and industrial resources for military and civilian needs; the sufficiency of productive facilities; the strategic relocation of industries; the mobilization and maximum utilization of manpower; and the maintenance and stabilization of the civilian economy.

The vigorous and efficient discharge of these vital functions is not well served by the simultaneous existence in the Executive Office of the President of the National Security Resources Board (charged with planning for the future) and the present Office of Defense Mobilization (charged with programs of the present). The progress of the current mobilization effort has made plain how artificial is the present separation of these functions.

Both functions should now be combined into one defense mobilization agency. Accordingly, the reorganization plan would create in the Executive Office of the President a new agency, to be known as the Office of Defense Mobilization. It would transfer to the new Office the functions of the Chairman of the National Security Resources Board and abolish that Board, including the offices of Chairman and Vice Chairman.

The reorganization plan also transfers to the new agency the statutory functions of the present Office of Defense Mobilization. These are of a minor nature, the major functions of the present Office of Defense Mobilization having been delegated to it by the President, principally under the Defense Production Act of 1950, as amended. It is my intention to transfer the latter functions to the new agency by Executive order, and to abolish the Office of Defense Mobilization established by Executive Order No. 10193. There will thus result a new agency which combines the activities of the National Security Resources Board and both the statutory and delegated functions of the heretofore existing Office of Defense Mobilization.

The proposed plan would also reorganize various activities relating to the stockpiling of strategic and critical materials. Those activities are principally provided for in the Strategic and Critical Materials Stock Piling Act, as amended. It has become increasingly apparent that the policy and program aspects of stockpiling are an integral part of mobilization planning. They should not be administered separately from plant expansion, conservation of materials, and materials procurement under the Defense Production Act of 1950, or from the duties placed in the National Security Resources Board by the National Security Act of 1947. Therefore, the reorganization plan would transfer to the Director of the new Office of Defense Mobilization responsibility for major stockpiling actions, including the determination of the nature and quantities of materials to be stockpiled. In the main, these functions are transferred from the Secretaries of the Army, Navy, and Air Force (acting jointly through the agency of the Munitions Board) and the Secretary of the Interior. The duties of the Administrator of General Services regarding the purchase of strategic and critical materials and the management of stockpiles are not affected by the reorganization plan, except that he will receive his directions, under the plan, from the Director of the Office of Defense Mobilization instead of from the Department of Defense.

This transfer of stockpiling functions will correct the present undesirable confusion of responsibilities. The functions of the heads of the military departments of the Department of Defense and the Secretary of the Interior under the Strategic and Critical Materials Stock Piling Act, as amended, are at present in considerable measure subject to other authority of delegates of the President springing from the Defense Production Act of 1950, as amended. The allocation and distribution of scarce materials among essential civilian and military activities and the continued maintenance of adequate stockpiles of strategic and critical materials are of major current importance. The reorganization plan will make possible more effective coordination and close control over the Government's whole stockpile program. It will speed decisions. It can result in significant economies.

The Department of Defense will, of course, continue to be responsible for presenting the needs of the military services. That Department and the Department of the Interior are specifically designated in the plan as additional agencies which shall appoint representatives to cooperate with the Director of the Office of Defense Mobilization in determining which materials are strategic and critical and how much of them is to be purchased. Final authority with regard to such determination will, however, be in the Director of the Office of Defense Mobilization.

Section 5(a) of the reorganization plan withholds from transfer to the Director and abolishes the functions of the Chairman of the National Security Resources Board with regard to being consulted by and furnishing advice to the President concerning the placing of orders of mandatory precedence for articles or materials for the use of the armed forces of the United States or for the use of the Atomic Energy Commission, and with regard to determining that a plant, mine, or other facility can be readily converted to the production or furnishing of such articles or materials. These abolished functions were vested in the National Security Resources Board by section 18 of the Selective Service Act of 1948 (later renamed as the Universal Military Training and Service Act) and were transferred to the Chairman of that Board by Reorganization Plan No. 25 of 1950. The practical effect of this abolition is to obviate a statutory mandate that the President consult and advise with another officer of the executive branch of the Government.

Section 5(b) of the reorganization plan abolishes the direction, authority, and control of the Secretary of Defense over functions transferred from the Department of Defense by the reorganization plan. The Secretary's functions in this regard are provided for in section 202(b) of the National Security Act of 1947, as amended (5 U.S.C. 171a(b)).

Section 5(c) of the reorganization plan abolishes any functions which were vested in the Army and Navy Munitions Board or which are vested in the Munitions Board with respect to serving as the agent through which the Secretaries of the Army, Navy, Air Force, and the Interior jointly act in determining which materials are strategic and critical under the provisions of the Strategic and Critical Materials Stock Piling Act, as amended, and the quality and quantities of such materials to be stockpiled. These abolished functions are provided for in section 2(a) of the Strategic and Critical Materials Stock Piling Act, as amended.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that by reason of these reorganizations it is necessary to include in the reorganization plan provisions for the appointment and compensation of a Director and a Deputy Director of the Office of Defense Mobilization. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers of the executive branch of the Government.

The reorganization plan will permit better organization and management of the Federal programs relating to materials and requirements and will thus help to achieve the maximum degree of mobilization readiness at the least possible cost. It is not practicable, however, to itemize, in advance of actual experience, the reductions of expenditures to be brought about by the taking effect of the reorganizations included in Reorganization Plan No. 3 of 1953.

I urge that the Congress allow the proposed reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 2, 1953.

REORGANIZATION PLAN NO. 4 OF 1953

Reorg. Plan No. 4 of 1953, 18 F.R. 3577, 67 Stat. 636, which related to the Department of Justice, was repealed by Pub. L. 89-554, § 8(a), Sept. 6, 1966, 80 Stat. 662.

REORGANIZATION PLAN NO. 5 OF 1953

Eff. June 30, 1953, 18 F.R. 3741, 67 Stat. 637

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 30, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

THE EXPORT-IMPORT BANK OF WASHINGTON

§ 1. THE MANAGING DIRECTOR

There is hereby established the office of Managing Director of the Export-Import Bank of Washington, hereinafter referred to as the "Managing Director." The Managing Director shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate of $17,500 per annum.

§ 2. DEPUTY DIRECTOR

There is hereby established the office of Deputy Director of the Export-Import Bank of Washington. The Deputy Director shall be appointed by the President by and with the advice and consent of the Senate, shall receive compensation at the rate of $16,000 per annum, shall perform such functions as the Managing Director may from time to time prescribe, and shall act as Managing Director during the absence or disability of the Managing Director or in the event of a vacancy in the office of Managing Director.

§ 3. ASSISTANT DIRECTOR

There is hereby established the office of Assistant Director of the Export-Import Bank of Washington. The Assistant Director shall be appointed by the Managing Director under the classified civil service, shall receive compensation at the rate now or hereafter fixed by law for grade GS-18 of the general schedule established by the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of this title], and shall perform such functions as the Managing Director may from time to time prescribe.

§ 4. FUNCTIONS TRANSFERRED TO THE MANAGING DIRECTOR

All functions of the Board of Directors of the Export-Import Bank of Washington are hereby transferred to the Managing Director.

§ 5. GENERAL POLICIES

The National Advisory Council on International Monetary and Financial Problems shall from time to time establish general lending and other financial policies which shall govern the Managing Director in the conduct of the lending and other financial operations of the bank.

§ 6. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Managing Director may from time to time make such provisions as he deems appropriate authorizing the performance of any of the functions of the Managing Director by any other officer, or by any agency or employee, of the bank.

§ 7. ABOLITION

The following are hereby abolished: (1) The Board of Directors of the Export-Import Bank of Washington, including the offices of the members thereof provided for in section 3(a) of the Export-Import Bank Act of 1945, as amended [section 635a(a) of Title 12]; (2) the Advisory Board of the Bank, together with the functions of the said Advisory Board; and (3) the function of the Chairman of the Board of Directors of the Export-Import Bank of Washington of being a member of the National Advisory Council on International Monetary and Financial Problems. The Managing Director shall make such provisions as may be necessary for winding up any outstanding affairs of the said abolished boards and offices not otherwise provided for in this reorganization plan.

§ 8. EFFECTIVE DATE

Sections 3 to 7, inclusive, of this reorganization plan shall become effective when the Managing Director first appointed hereunder enters upon office pursuant to the provisions of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 5 of 1953, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended.

The purpose of the reorganization plan is to simplify the organization and strengthen the administration of the Export-Import Bank of Washington by providing for a single Managing Director at the head of the bank. The management of the bank is now vested in a Board of Directors consisting of four full-time members and the Secretary of State, ex officio. The functions performed by the Board are essentially of an executive nature and are comparable to those vested in the heads of other executive agencies. Experience has demonstrated that the most effective performance of executive functions is more likely to be obtained under a single administrator than under a board.

The plan concentrates authority and responsibility for bank operations in the Managing Director. Safeguards are provided in the plan and in existing law, however, to assure that the bank follows sound lending and financial policies and that its activities are coordinated with those of other Government agencies having international responsibilities. Under the plan, the National Advisory Council on International Monetary and Financial Problems is authorized to establish the general lending and other financial policies which shall govern the operations of the bank. The Council is composed of the Secretary of the Treasury, as chairman, the Secretary of State, the Secretary of Commerce, the Chairman of the Board of Governors of the Federal Reserve System, and the Director for Mutual Security.

At present the Board of Directors is not only subject to policy guidance by the National Advisory Council, under the provisions of the Bretton Woods Agreements Act, but is also required to consult with the Advisory Board for the Export-Import Bank, created by the Export-Import Bank Act, on major questions of policy and to receive recommendations from that Board. The composition of the Advisory Board largely parallels that of the Council. The differences are that only the latter includes the Director for Mutual Security as a member and that the Chairman of the Board of Directors of the Export-Import Bank is the Chairman of the Advisory Board whereas the Secretary of the Treasury serves as the Chairman of the Council. Because of the similarity of the composition of the Advisory Board and Council, and of their functions as respects the bank, the reorganization plan abolishes the Advisory Board. It also abolishes the functions of the Advisory Board (conferred by sec. 3(d) of the Export-Import Bank Act of 1945).

The reorganization plan also provides for the abolition of the functions of the Chairman of the Board of Directors of the Export-Import Bank of Washington with respect to his membership on the National Advisory Council on International Monetary and Financial Problems. The function of membership is conferred upon the Chairman by section 4 of the Bretton Woods Agreements Act, as amended. I contemplate that the Managing Director of the Export-Import Bank of Washington will participate as a nonvoting member of the National Advisory Council in relation to matters of concern to the bank. I believe there is merit in reducing the size of the Council and also believe that the interests of the bank can be properly placed before the Council without conferring full Council membership on the Managing Director of the Bank.

Under the reorganization plan the Export-Import Bank of Washington will continue in its status of a corporate entity, and independent agency, in the executive branch of the Government. The President will retain authority to terminate or modify any delegation or assignment of function made by the President to the bank or to any of its agencies or officers.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 5 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I also have found and hereby declare that by reason of these reorganizations it is necessary to include in the reorganization plan provision for the appointment and compensation of the new officers specified in sections 1, 2, and 3 of the reorganization plan. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of Reorganization Plan No. 5 of 1953 will accomplish a small immediate reduction of expenditures, since it will substitute 1 Managing Director, together with a deputy and assistant, for a Board which includes 4 full-time members. Other reductions in expenditures will probably be brought about also, through increased economy and efficiency in the performance of necessary services of the bank resulting from the simplification of its organization, but such reductions cannot be itemized in advance of actual experience.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 30, 1953.

REORGANIZATION PLAN NO. 6 OF 1953

Eff. June 30, 1953, 18 F.R. 3743, 67 Stat. 638

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 30, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

DEPARTMENT OF DEFENSE

§ 1. TRANSFERS OF FUNCTIONS

(a) All functions of the Munitions Board, the Research and Development Board, the Defense Supply Management Agency, and the Director of Installations are hereby transferred to the Secretary of Defense.

(b) The selection of the Director of the Joint Staff by the Joint Chiefs of Staff, and his tenure, shall be subject to the approval of the Secretary of Defense.

(c) The selection of the members of the Joint Staff by the Joint Chiefs of Staff, and their tenure, shall be subject to the approval of the Chairman of the Joint Chiefs of Staff.

(d) The functions of the Joint Chiefs of Staff with respect to managing the Joint Staff and the Director thereof are hereby transferred to the Chairman of the Joint Chiefs of Staff.

§ 2. ABOLITION OF AGENCIES AND FUNCTIONS

(a) There are hereby abolished the Munitions Board, the Research and Development Board, and the Defense Supply Management Agency.

(b) The offices of Chairman of the Munitions Board, Chairman of the Research and Development Board, Director of the Defense Supply Management Agency, Deputy Director of the Defense Supply Management Agency, and Director of Installations are hereby abolished.

(c) The Secretary of Defense shall provide for winding up any outstanding affairs of the said abolished agency, boards, and offices, not otherwise provided for in this reorganization plan.

(d) The function of guidance to the Munitions Board in connection with strategic and logistic plans as required by section 213(c) of the National Security Act of 1947, as amended, is hereby abolished.

§ 3. ASSISTANT SECRETARIES OF DEFENSE

[Repealed. Pub. L. 85-599, § 10(b), Aug. 6, 1958, 72 Stat. 521. Section authorized appointment of six additional Assistant Secretaries and prescribed their duties and compensation.]

§ 4. GENERAL COUNSEL

[Repealed. Pub. L. 87-651, title III, § 307C, Sept. 7, 1962, 76 Stat. 526. Section authorized appointment of a General Counsel for the Department of Defense, and is now covered by section 137 of Title 10, Armed Forces.]

§ 5. PERFORMANCE OF FUNCTIONS

[Repealed. Pub. L. 87-651, title III, § 307C, Sept. 7, 1962, 76 Stat. 526. Section authorized the Secretary of Defense from time to time to make such provisions as he deemed appropriate authorizing the performance by any other officer, or by any agency or employee, of the Department of any function of the Secretary, and is now covered by section 133 of Title 10, Armed Forces.]

§ 6. MISCELLANEOUS PROVISIONS

(a) The Secretary of Defense may from time to time effect such transfers within the Department of Defense of any of the records, property, and personnel affected by this reorganization plan, and such transfers of unexpended balances (available or to be made available for use in connection with any affected function or agency) of appropriations, allocations, and other funds of such Department, as he deems necessary to carry out the provisions of this reorganization plan.

(b) Nothing herein shall affect the compensation of the Chairman of the Military Liaison Committee (63 Stat. 762).

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I address the Congress on a subject which has been of primary interest to me throughout all the years of my adult life—the defense of our country.

As a former soldier who has experienced modern war at first hand, and now as President and Commander in Chief of the Armed Forces of the United States, I believe that our Defense Establishment is in need of immediate improvement. In this message I indicate actions which we are taking, and must yet take, to assure the greater safety of America.

Through the years our Nation has warded off all enemies. We have defended ourselves successfully against those who have waged war against us. We enjoy, as a people, a proud tradition of triumph in battle.

We are not, however, a warlike people. Our historic goal is peace. It shall ever be peace—peace to enjoy the freedom we cherish and the fruits of our labors. We maintain strong military forces in support of this supreme purpose, for we believe that in today's world only properly organized strength may altogether avert war.

Because we are not a military-minded people, we have sometimes failed to give proper thought to the problems of the organization and adequacy of our Armed Forces. Past periods of international stress and the actual outbreaks of wars have found us poorly prepared. On such occasions we have had to commit to battle insufficient and improperly organized military forces to hold the foe until our citizenry could be more fully mobilized and our resources marshaled. We know that we cannot permit a repetition of those conditions.

Today we live in a perilous period of international affairs. Soviet Russia and her allies have it within their power to join with us in the establishment of a true peace or to plunge the world into global war. To date they have chosen to conduct themselves in such a way that these are years neither of total war nor total peace.

We in the United States have, therefore, recently embarked upon the definition of a new, positive foreign policy. One of our basic aims is to gain again for the free world the initiative in shaping the international conditions under which freedom can thrive. Essential to this endeavor is the assurance of an alert, efficient, ever-prepared Defense Establishment.

Today our international undertakings are shared by the free peoples of other nations. We find ourselves in an unparalleled role of leadership of free men everywhere. With this leadership have come new responsibilities. With the basic purpose of assuring our own security and economic viability, we are helping our friends to protect their lives and liberties. And one major help that we may give them is reliance upon our own Military Establishment.

Today also witnesses one of history's times of swiftest advance in scientific achievements. These developments can accomplish wonders in providing a healthier and happier life for us all. But—converted to military uses—they threaten new, more devastating terrors in war. These simple, inescapable facts make imperative the maintenance of a defense organization commanding the most modern technological instruments in our arsenal of weapons.

In providing the kind of military security that our country needs, we must keep our people free and our economy solvent. We must not endanger the very things we seek to defend. We must not create a nation mighty in arms that is lacking in liberty and bankrupt in resources. Our armed strength must continue to rise from the vigor of a free people and a prosperous economy.

Recognizing all these national and international demands upon our Military Establishment, we must remain ever mindful of three great objectives in organizing our defense.

First: Our Military Establishment must be founded upon our basic constitutional principles and traditions. There must be a clear and unchallenged civilian responsibility in the Defense Establishment. This is essential not only to maintain democratic institutions, but also to protect the integrity of the military profession. Basic decisions relating to the military forces must be made by politically accountable civilian officials. Conversely, professional military leaders must not be thrust into the political arena to become the prey of partisan politics. To guard these principles, we must recognize and respect the clear lines of responsibility and authority which run from the President, through the Secretary of Defense and the Secretaries of the military departments, over the operations of all branches of the Department of Defense.

Second: Effectiveness with economy must be made the watchwords of our defense effort. To maintain an adequate national defense for the indefinite future, we have found it necessary to devote a larger share of our national resources than any of us have heretofore anticipated. To protect our economy, maximum effectiveness at minimum cost is essential.

Third: We must develop the best possible military plans. These plans must be sound guides to action in case of war. They must incorporate the most competent and considered thinking from every point of view—military, scientific, industrial, and economic.

To strengthen civilian control by establishing clear lines of accountability, to further effectiveness with economy, and to provide adequate planning for military purposes—these were primarily objectives of the Congress in enacting the National Security Act of 1947 and strengthening it in 1949.

Now much has happened which makes it appropriate to review the workings of those basic statutes. Valuable lessons have been learned through 6 years of trial by experience. Our top military structure has been observed under changing conditions. The military action in Korea, the buildup of our forces everywhere, the provision of military aid to other friendly nations, and the participation of United States Armed Forces in regional collective security arrangements, such as those under the North Atlantic Treaty Organization—all these have supplied sharp tests of our military organization. Today, in making my specific recommendations, I have also had the benefit of the report prepared by the Committee on Department of Defense Organization established by the Secretary of Defense 3 months ago.

The time is here, then, to work to perfect our Military Establishment without delay.

I

The first objective, toward which immediate actions already are being directed, is clarification of lines of authority within the Department of Defense so as to strengthen civilian responsibility.

I am convinced that the fundamental structure of our Department of Defense and its various component agencies as provided by the National Security Act, as amended, is sound. None of the changes I am proposing affects that basic structure, and this first objective can and will be attained without any legislative change.

With my full support, the Secretary of Defense must exercise over the Department of Defense the direction, authority, and control which are vested in him by the National Security Act. He should do so through the basic channels of responsibility and authority prescribed in that act—through the three civilian Secretaries of the Army, the Navy, and the Air Force, who are responsible to him for all aspects of the respective military departments (except for the legal responsibility of the Joint Chiefs of Staff to advise the President in military matters). No function in any part of the Department of Defense, or in any of its component agencies, should be performed independent of the direction, authority, and control of the Secretary of Defense. The Secretary is the accountable civilian head of the Department of Defense, and, under the law, my principal assistant in all matters relating to the Department. I want all to know that he has my full backing in that role.

To clarify a point which has led to considerable confusion in the past, the Secretary of Defense, with my approval, will shortly issue a revision of that portion of the 1948 memorandum commonly known as the Key West agreement, which provides for a system of designating executive agents for unified commands. Basic decisions with respect to the establishment and direction of unified commands are made by the President and the Secretary of Defense, upon the recommendation of the Joint Chiefs of Staff in their military planning and advisory role. But the provision of the Key West agreement, under which the Joint Chiefs of Staff designate one of their members as an executive agent for each unified command, has led to considerable confusion and misunderstanding with respect to the relationship of the Joint Chiefs of Staff to the Secretary of Defense, and the relationship of the military chief of each service to the civilian Secretary of his military department.

Hence, the Secretary of Defense, with my approval, is revising the Key West agreement to provide that the Secretary of Defense shall designate in each case a military department to serve as the executive agent for a unified command. Under this new arrangement the channel of responsibility and authority to a commander of a unified command will unmistakably be from the President to the Secretary of Defense to the designated civilian Secretary of a military department. This arrangement will fix responsibility along a definite channel of accountable civilian officials as intended by the National Security Act.

It will be understood, however, that, for the strategic direction and operational control of forces and for the conduct of combat operations, the military chief of the designated military department will be authorized by the Secretary of Defense to receive and transmit reports and orders and to act for that department in its executive agency capacity. This arrangement will make it always possible to deal promptly with emergency or wartime situations. The military chief will clearly be acting in the name and by the direction of the Secretary of Defense. Promulgated orders will directly state that fact.

By taking this action to provide clearer lines of responsibility and authority for the exercise of civilian control, I believe we will make significant progress toward increasing proper accountability in the top levels of the Department of Defense.

II

Our second major objective is effectiveness with economy. Although the American people, throughout their history, have hoped to avoid supporting large military forces, today we must obviously maintain a strong military force to ward off attack, at a moment's notice, by enemies equipped with the most devastating weapons known to modern science. This need for immediate preparedness makes it all the more imperative to see that the Nation maintains effective military forces in the manner imposing the minimum burden on the national economy.

In an organization the size of the Department of Defense, true effectiveness with economy can be attained only by decentralization of operations, under flexible and effective direction and control from the center. I am impressed with the determination of the Secretary of Defense to administer the Department on this basis and to look to the Secretaries of the three military departments as his principal agents for the management and direction of the entire defense enterprise.

Such a system of decentralized operations, however, requires, for sound management, flexible machinery at the top. Unfortunately, this is not wholly possible in the Department of Defense as now established by law. Two principal fields of activity are rigidly assigned by law to unwieldy boards which—no matter how much authority may be centralized in their respective chairmen—provide organizational arrangements too slow and too clumsy to serve as effective management tools for the Secretary. In addition, other staff agencies have been set up in the Office of the Secretary of Defense and their functions prescribed by law, thus making it difficult for the Secretary to adjust his staff arrangements to deal with new problems as they arise, or to provide for flexible cooperation among the several staff agencies.

Accordingly, I am transmitting today to the Congress a reorganization plan which is designed to provide the Secretary of Defense with a more efficient staff organization. The plan calls for the abolition of the Munitions Board, the Research and Development Board, the Defense Supply Management Agency, and the office of Director of Installations and vests their functions in the Secretary of Defense. At the same time the plan authorizes the appointment of new Assistant Secretaries of Defense to whom the Secretary of Defense intends to assign the functions now vested in the agencies to be abolished and certain other functions now assigned to other officials. Specifically, the reorganization plan provides for 6 additional Assistant Secretaries—3 to whom the Secretary will assign the duties now performed by the 2 Boards (based on a redistribution of staff functions), 2 who will be utilized to replace individual officials who presently hold other titles, and 1 to be assigned to a position formerly but no longer filled by an Assistant Secretary. The new Assistant Secretary positions are required in order to make it possible to bring executives of the highest type to the Government service and to permit them to operate effectively and with less personnel than at present. In addition, the plan also provides that, in view of the importance of authoritative legal opinions and interpretations, the office of General Counsel be raised to a statutory position with rank substantially equivalent to that of an Assistant Secretary.

The abolition of the present statutory staff agencies and the provision of the new Assistant Secretaries to aid the Secretary of Defense will be the key to the attainment of increased effectiveness at low cost in the Department of Defense. These steps will permit the Secretary to make a thorough reorganization of the nonmilitary staff agencies in his office. He will be able to establish truly effective and vigorous staff units under the leadership of the Assistant Secretaries. Each Assistant Secretary will function as a staff head within an assigned field of responsibility.

Without imposing themselves in the direct lines of responsibility and authority between the Secretary of Defense and the Secretaries of the three military departments, the Assistant Secretaries of Defense will provide the Secretary with a continuing review of the programs of the Defense Establishment and help him institute major improvements in their execution. They will be charged with establishing systems, within their assigned fields, for obtaining complete and accurate information to support recommendations to the Secretary. The Assistant Secretaries will make frequent inspection visits to our farflung installations and check for the Secretary the effectiveness and efficiency of operations in their assigned fields.

Other improvements are badly needed in the Departments of the Army, the Navy, and the Air Force. Accordingly, the Secretary of Defense is initiating studies by the three Secretaries of the military departments of the internal organization of their departments with a view toward making those Secretaries truly responsible administrators, thereby obtaining greater effectiveness and attaining economies wherever possible. These studies will apply to the organization of the military departments some of the same principles of clearer lines of accountability which we are applying to the Department of Defense as a whole.

Immediate attention will also be given to studying improvements of those parts of the military departments directly concerned with the procurement and distribution of munitions and supplies and the inventory and accounting systems within each military department. We must take every step toward seeing that our Armed Forces are adequately supplied at all times with the materials essential for them to carry on their operations in the field. Necessary to this effort is a reorganization of supply machinery in the military departments. These studies of the organization of the military departments have my full support.

One other area for improved effectiveness is civilian and military personnel management. In this area certain specialized studies and actions are desirable. Accordingly, I have directed the Secretary of Defense to organize a study of the problems of attracting and holding competent career personnel—civilian and military—in the Department of Defense. As a part of this study, an examination of the Officer Personnel Act of 1947 and its practical administration will be undertaken to see if any changes are needed. I am directing that this study also include a review of statutes governing the retirement of military officers aimed at eliminating those undesirable provisions which force the early retirement of unusually capable officers who are willing to continue on active service.

The Secretary of Defense, with my approval, is issuing revised orders relating to the preparing and signing of efficiency reports for military personnel who serve full time in the Office of the Secretary, and new instructions to the military departments to guide selection boards in their operations. These actions are aimed at giving full credit to military officers serving in the Office of the Secretary of Defense for their work for the Department of Defense as a whole. Henceforth, civilian officials who have military officers detailed to their offices on a full-time basis will be responsible for filling out and signing the formal efficiency reports for such officers for the period of such service. In the case of officers serving in the Office of the Secretary of Defense, no other efficiency reports for such service will be maintained. The Secretary of each military department is being instructed to direct the boards convened in his department for the selection of military officers for promotion, to give the same weight to service in the Office of the Secretary of Defense and the efficiency reports from that Office as to service in the military department staff and to efficiency reports of departmental officers. These actions are desirable in order to reward military officers equally for service on behalf of the Department of Defense and service on the staff of a military department.

These actions and others which will be undertaken are aimed at a more effective and efficient Department of Defense; indeed, actions toward this objective will be continuous.

The impact of all these measures will be felt through the whole structure of the Department of Defense, its utilization of millions of personnel and billions of dollars. A simple token testimony to this is this fact: in the Office of the Secretary of Defense alone a staff reduction of approximately 500 persons will be effected.

III

Our third broad objective is to improve our machinery for strategic planning for national security. Certain actions toward this end may be taken administratively to improve the organization and procedures within the Department of Defense. Other changes are incorporated in the reorganization plan transmitted to the Congress today.

The Joint Chiefs of Staff, as provided in the National Security Act of 1947, are not a command body but are the principal military advisers to the President, the National Security Council, and the Secretary of Defense. They are responsible for formulating the strategic plans by which the United States will cope with the challenge of any enemy. The three members of the Joint Chiefs of Staff who are the military chiefs of their respective services are responsible to their Secretaries for the efficiency of their services and their readiness for war.

These officers are clearly overworked, and steps must be devised to relieve them of time-consuming details of minor importance. They must be encouraged to delegate lesser duties to reliable subordinate individuals and agencies in both the Joint Chiefs of Staff structure and in their military-department staffs. One of our aims in making more effective our strategic planning machinery, therefore, is to improve the organization and procedures of the supporting staff of the Joint Chiefs of Staff so that the Chiefs, acting as a body, will be better able to perform their roles as strategic planners and military advisers.

Our military plans are based primarily on military factors, but they must also take into account a wider range of policy and economic factors, as well as the latest developments of modern science. Therefore, our second aim in assuring the very best strategic planning is to broaden the degree of active participation of other persons and units at the staff level in the consideration of matters before the Joint Chiefs of Staff and to bring to bear more diversified and expert skills.

The reorganization plan transmitted to the Congress today is designed—without detracting from the military advisory functions of the Joint Chiefs of Staff as a group—to place upon the Chairman of the Joint Chiefs of Staff greater responsibility for organizing and directing the subordinate structure of the Joint Chiefs of Staff in such a way as to help the Secretary of Defense and the Joint Chiefs of Staff discharge their total responsibilities.

Specifically, the reorganization plan makes the Chairman of the Joint Chiefs of Staff responsible for managing the work of the Joint Staff and its Director. The Joint Staff is, of course, a study-and-reporting body serving the Joint Chiefs of Staff. The plan makes the service of the Director of the Joint Staff subject to the approval of the Secretary of Defense. It also makes the service of officers on the Joint Staff subject to the approval of the Chairman of the Joint Chiefs of Staff. These new responsibilities of the Chairman are in consonance with his present functions of serving as the presiding officer of the Joint Chiefs of Staff, providing agenda for meetings, assisting the Joint Chiefs of Staff to perform their duties as promptly as practicable, and keeping the Secretary of Defense and the President informed of issues before the Joint Chiefs of Staff. In addition, the proposed changes will relieve the Joint Chiefs of Staff, as a body, of a large amount of administrative detail involved in the management of its subordinate committee and staff structure.

In support of our second aim, broadened participation in strategic planning, the Secretary of Defense will direct the Chairman of the Joint Chiefs of Staff to arrange for the fullest cooperation of the Joint Staff and the subcommittees of the Joint Chiefs of Staff with other parts of the Office of the Secretary of Defense in the early stages of staff work on any major problem. If necessary, to aid in this additional burden, an Assistant or Deputy Director of the Joint Staff will be designated to give particular attention to this staff collaboration. Thus, at the developmental stages of important staff studies by the subordinate elements of the Joint Chiefs of Staff, there will be a proper integration of the views and special skills of the other staff agencies of the Department, such as those responsible for budget, manpower, supply, research, and engineering. This action will assure the presentation of improved staff products to the Joint Chiefs of Staff for their consideration.

Also, special attention will be given to providing for the participation of competent civilian scientists and engineers within the substructure of the Joint Chiefs of Staff. Such participants will be able to contribute a wide range of scientific information and knowledge to our strategic planning.

Only by including outstanding civilian experts in the process of strategic planning can our military services bring new weapons rapidly into their established weapons systems, make recommendations with respect to the use of new systems of weapons in the future war plans, and see that the whole range of scientific information and knowledge of fundamental cost factors are taken into account in strategic planning.

Taken together, the changes included in the reorganization plan and the several administrative actions should go a long way toward improving the strategic planning machinery of the Joint Chiefs of Staff, and lead to the development of plans based on the broadest conception of the overall national interest rather than the particular desires of the individual services.

I transmit herewith Reorganization Plan No. 6 of 1953, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganizations in the Department of Defense.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 6 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I have found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of six additional Assistant Secretaries of Defense and a General Counsel of the Department of Defense. The rates of compensation fixed for these officers are those which I have found to prevail in respect to comparable officers in the executive branch of the Government.

The statutory authority for the exercise of the function of guidance to the Munitions Board in connection with strategic and logistic plans, abolished by section 2(d) of the reorganization plan, is section 213(c) of the National Security Act of 1947, as amended.

The taking effect of the reorganizations included in Reorganization Plan No. 6 of 1953 is expected to result in a more effective, efficient, and economical performance of functions in the Department of Defense. It is impracticable to specify or itemize at this time the reduction of expenditures which it is probable will be brought about by such taking effect.

The Congress is a full partner in actions to strengthen our Military Establishment. Jointly we must carry forward a sound program to keep America strong. The Congress and the President, acting in their proper spheres, must perform their duties to the American people in support of our highest traditions. Should, for any reason, the national military policy become a subject of partisan politics, the only loser would be the American people.

We owe it to all the people to maintain the best Military Establishment that we know how to devise. There are none, however, to whom we owe it more than the soldiers, the sailors, the marines, and the airmen in uniform whose lives are pledged to the defense of our freedom.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 30, 1953.

REORGANIZATION PLAN NO. 7 OF 1953

Reorg. Plan No. 7 of 1953, 18 F.R. 4541, 67 Stat. 639, which established the Foreign Operations Administration and transferred certain functions to the Director, including functions of the Director for Mutual Security, was repealed by Pub. L. 87-195, pt. III, § 642(a)(1), Sept. 4, 1961, 75 Stat. 460.

REORGANIZATION PLAN NO. 8 OF 1953

Eff. Aug. 1, 1953, 18 F.R. 4542, 67 Stat. 642

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 1, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

UNITED STATES INFORMATION AGENCY

§ 1. ESTABLISHMENT OF AGENCY

(a) There is hereby established a new agency which shall be known as the United States Information Agency, hereinafter referred to as the "Agency."

(b) There shall be at the head of the Agency a Director of the United States Information Agency, hereinafter referred to as the "Director." The Director shall be appointed by the President by and with the advice and consent of the Senate and shall receive compensation at the rate of $17,500 a year. The Secretary of State shall advise with the President concerning the appointment and tenure of the Director.

(c) There shall be in the Agency a Deputy Director of the United States Information Agency, who shall be appointed by the President by and with the advice and consent of the Senate, and who shall receive compensation at the rate of $16,000 a year. The Deputy Director shall perform such functions as the Director shall from time to time designate, and shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of the Director.

(d) There are hereby established in the Agency so many new offices, not in excess of fifteen existing at any one time, and with such title or titles as the Director shall from time to time determine. Appointment thereto shall be under the classified civil service and the compensation thereof shall be fixed from time to time pursuant to the classification laws as now or hereafter amended. (As amended act June 28, 1955, ch. 189, § 12(c)(21) 69 Stat. 183.)

§ 2. Transfer of Functions

(a) Subject to subsection (c) of this section, there are hereby transferred to the Director (1) the functions vested in the Secretary of State by title V of the United States Information and Educational Exchange Act of 1948, as amended [sections 1461 and 1462 of Title 22], and so much of functions with respect to the interchange of books and periodicals and aid to libraries and community centers under sections 202 and 203 of the said Act [sections 1447 and 1448 of Title 22] as is an integral part of information programs under that Act [sections 1431-1479 of Title 22], together with so much of the functions vested in the Secretary of State by other provisions of the said Act [sections 1431-1479 of Title 22] as is incidental to or is necessary for the performance of the functions under title V [sections 1461 and 1462 of Title 22] and sections 202 and 203 [sections 1447 and 1448 of Title 22] transferred by this section, and (2) functions of the Secretary of State with respect to information programs relating to Germany and Austria.

(b) Exclusive of so much thereof as is an integral part of economic or technical assistance programs, without regard to any inconsistent provision of Reorganization Plan Numbered 7 of 1953, and subject to subsection (c) of this section, functions with respect to foreign information programs vested by the Mutual Security Act of 1951, as amended [former section 1651 et seq. of Title 22], in the Director for Mutual Security provided for in section 501 of the said Act [former section 1652 of Title 22] are hereby transferred to the Director.

(c)(1) The Secretary of State shall direct the policy and control the content of a program, for use abroad, on official United States positions, including interpretations of current events, identified as official positions by an exclusive descriptive label.

(2) The Secretary of State shall continue to provide to the Director on a current basis full guidance concerning the foreign policy of the United States.

(3) Nothing herein shall affect the functions of the Secretary of State with respect to conducting negotiations with other governments.

(d) To the extent the President deems it necessary in order to carry out the functions transferred by the foregoing provisions of this section, he may authorize the Director to exercise, in relation to the respective functions so transferred, any authority or part thereof available by law, including appropriation acts, to the Secretary of State, the Director for Mutual Security, or the Director of the Foreign Operations Administration, in respect of the said transferred functions.

§ 3. Performance of Transferred Functions

(a) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance of any function of the Director by any other officer, or by any employee or organizational entity, of the Agency.

(b) Representatives of the United States carrying out the functions transferred by section 2 hereof in each foreign country shall be subject to such procedures as the President may prescribe to assure coordination among such representatives in each country under the leadership of the chief of the United States diplomatic mission.

§ 4. Incidental Transfers

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, employed, used, held, available, or to be made available in connection with the functions transferred or vested by this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Agency at such time or times as he shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

§ 5. Interim Provisions

Pending the initial appointment under section 1 of this reorganization plan of the Director and Deputy Director, respecitvely, therein provided for, their functions shall be performed temporarily, but not for a period in excess of 60 days, by such officers of the Department of State or the Mutual Security Agency as the President shall designate.

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 8 of 1953, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for the reorganization of foreign information functions. My reasons for proposing this plan are stated in another message transmitted to the Congress today.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 8 of 1953 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of officers specified in section 1 of the plan. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

I expect that the improved organizational arrangement provided for in Reorganization Plan No. 8 of 1953 will lead to substantial economies and significantly improved effectiveness of administration. It is not practicable, however, to itemize at this time the reductions in expenditures which will probably be brought about by the taking effect of the reorganizations included in the reorganization plan.

Dwight D. Eisenhower.

The White House, June 1, 1953.

REORGANIZATION PLAN NO. 9 OF 1953

Eff. Aug. 1, 1953, 18 F.R. 4543, 67 Stat. 644

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 1, 1953, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

Council of Economic Advisers

The functions vested in the Council of Economic Advisers by section 4(b) of the Employment Act of 1946

(60 Stat. 24) [section 1023(b) of Title 15], and so much of the functions vested in the Council by section 4(c) of that Act [section 1023(c) of Title 15] as consists of reporting to the President with respect to any function of the Council under the said section 4(c) [section 1023(c) of Title 15], are hereby transferred to the Chairman of the Council of Economic Advisers. The position of Vice Chairman of the Council of Economic Advisers, provided for in the last sentence of section 4(a) of the said Act [section 1023(a) of Title 15], is hereby abolished.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 9 of 1953, prepared in accordance with the Reorganization Act of 1949, as amended and providing reorganizations in the Council of Economic Advisers in the Executive Office of the President.

The legislative history of the Employment Act of 1946 makes it clear that it is the determination of the Congress to help develop a strong economy in the United States. A strong economy is necessary to preserve the peace, to build our defenses and those of the free world, to raise the living standards of our people, and to stimulate trade and industry in friendly countries throughout the world.

A strong economy means a free economy—with full opportunities for the exercise of initiative and enterprise on the part of all individuals.

It means a stable economy—so that satisfying jobs are as numerous as the men and women seeking work, and the production of goods is abundant to meet our needs.

It means an expanding economy—in which workers, managers, and farmers, using more and better tools, constantly increase the output of useful products and services and receive steadily rising incomes in a dollar of stable value.

It means a humane economy—to the end that the aged, infirm, and those suffering hardships receive every needed help.

The achievement and preservation of a strong economy—an economy that is progressive as well as competitive, an economy that remains free from the distortions of inflation and the ravages of depression, an economy that forms the solid foundation for the flourishing of our democratic, social, and political institutions—is everybody's job. Workers, businessmen, bankers, farmers, housewives—all have an important role to play. The Federal Government, too, shares in this vital task. For example, the duties of the President require that he be fully informed of major economic trends and activities in order to recommend proper measures for the consideration of the Congress, and to take into account economic realities in seeing that the laws be faithfully executed.

It is well that the Congress has declared in the Employment Act of 1946, the continuing policy and responsibility of the Federal Government to coordinate and utilize all its plans, functions, and resources for the purpose of creating and maintaining, consistently with free competitive enterprise and the general welfare, employment opportunities for all. That act dedicates the Federal Government to the promotion of maximum employment, production, and purchasing power.

To assist in carrying out those purposes, the Congress provided for the establishment of the Council of Economic Advisers in the Executive Office of the President to make appropriate recommendations to the President and to assist in the preparation of his annual economic report to the Congress.

I believe in the basic principles of the Employment Act, and it is my purpose to take the appropriate actions to reinvigorate and make more effective the operations of the Council of Economic Advisers. Our needs for proper advice on economic matters are equaled only by our needs to have the very best advice and planning on matters of national security.

In taking these actions, I have the benefit of the study and work of the Economic Adviser to the President recently provided by the Congress. The Economic Adviser has reviewed the past operations of the Council of Economic Advisers and has recommended to me a series of actions aimed at making it more fully effective in performing its statutory duties.

Accordingly, I intend to appoint a full membership of three members to the Council of Economic Advisers and to recommend to the Congress that adequate funds be appropriated to operate the Council as a fully going unit capable of providing the kind of economic staff work required.

The accompanying reorganization plan provides changes which strengthen the internal administration of the Council and clarify its relationships with the President.

To achieve the first objective—strengthened internal administration—the reorganization plan will make the Chairman of the Council, rather than the whole Council, responsible for certain administrative functions of the Council. Because the Council is essentially an advisory body, these administrative functions relate principally to managing the staff employed to assist the Council. Placing the Chairman in a position to perform these functions will obtain the benefits of single management of the staff. To make possible such an arrangement, the accompanying reorganization plan transfers to the Chairman the functions vested in the Council of Economic Advisers by section 4(b) of the Employment Act, which relate to employing the staff and other necessary specialists and consultants to work for the Council.

To further the other objective—a clearer relationship with the President—the reorganization plan transfers to the Chairman the function of reporting to the President on the activities of the Council. This change will improve and simplify the relationship of the Council to the President and enable the President to deal with the Council more directly through the Chairman.

The increased responsibilities placed upon the Chairman by this plan would, in my judgment, make it appropriate for the Congress to take action to increase the compensation of the Chairman.

The reorganization plan provides for the elimination of the Vice Chairman of the Council of Economic Advisers, whose designation is provided for in the last sentence of section 4(a) of the Employment Act of 1946. The objective of this step is to place the members of the Council, other than the Chairman, in an equal status. I shall make provision for one of the members of the Council, other than the Chairman, to act as Chairman of the Council on such occasions as necessity may arise therefor.

In order to make the work of the Council of Economic Advisers more effective at the top policy level of the executive branch, I am also asking the heads of several departments and agencies, or the representatives they may designate, to serve as an Advisory Board on Economic Growth and Stability, under the chairmanship of the Chairman of the Council of Economic Advisers. At all times, close liaison must be maintained by the Council with all departments and agencies, and with interdepartmental committees, especially the National Advisory Council on International Monetary and Financial Problems.

It is contemplated that the Advisory Board on Economic Growth and Stability, supported by the existing staffs of the various departments and agencies, will meet frequently, and through its Chairman will keep me closely informed about the state of the national economy and the various measures necessary to aid in maintaining a stable prosperity.

Because of the complexity of our economy and the variety of views regarding its problems, I shall expect the new Council of Economic Advisers to seek advice energetically not only from the departments and agencies of the Federal Government but also from representatives of industry, agriculture, labor, consumers, and other groups concerned with economic matters, from representatives of State and local governments, and from universities. I want the best economic thinking in the country to be canvassed by the Council. Through advisory groups, through the employment of expert consultants, and through informal relationships with informed citizens the Council will make use of economic talent wherever it may be.

I deem it especially significant that the Congress has provided in the Employment Act for the Joint Committee on the Economic Report, composed of Members of both Houses of the Congress, to study matters relating to the economic report and to make recommendations to the two Houses for legislation. I expect to impress upon the Council of Economic Advisers the importance which I attach to the fullest cooperation of the Council with the Joint Committee to assist the Joint Committee in its important tasks.

After investigation I have found and hereby declare that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

The taking effect of the reorganizations included in the accompanying reorganization plan is expected to result in a more effective performance of the statutory functions of the Council of Economic Advisers and to provide the President with better advice upon economic matters. It is impracticable to specify or itemize at this time any reduction of expenditures which it is probable will be brought about by the taking effect of this reorganization plan.

The reorganization plan will make the Federal Government better able to carry out its responsibilities to the American people to foster a strong, free, and prosperous economy so that we may all enjoy an ever-rising standard of living. I urge the Congress to permit the reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, June 1, 1953.

REORGANIZATION PLAN NO. 10 OF 1953

Reorg. Plan No. 10 of 1953, 18 F.R. 4543, 67 Stat. 644, which authorized payments to air carriers, was repealed by Pub. L. 85-726, title XIV, § 1401(c), Aug. 23, 1958, 72 Stat. 806.

REORGANIZATION PLAN NO. 1 OF 1954

Eff. July 1, 1954, 19 F.R. 3985, 68 Stat. 1279

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 29, 1954, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES

§ 1. ESTABLISHMENT OF COMMISSION

There is hereby established the Foreign Claims Settlement Commission of the United States, hereinafter referred to as the Commission. The Commission shall be composed of three members, who shall each be appointed by the President by and with the advice and consent of the Senate, hold office during the pleasure of the President, and receive compensation at the rate of $15,000 per annum. The President shall from time to time designate one of the members of the Commission as the Chairman of the Commission, hereinafter referred to as the Chairman. Two members of the Commission shall constitute a quorum for the transaction of the business of the Commission.

§ 2. TRANSFER OF FUNCTIONS

(a) All functions of the War Claims Commission and of the members, officers, and employees thereof are hereby transferred to the Foreign Claims Settlement Commission of the United States.

(b) All functions of the International Claims Commission of the United States (hereinafter referred to as the International Claims Commission) and of the members, officers, and employees thereof are hereby transferred to the Foreign Claims Settlement Commission of the United States.

(c) The functions of the Secretary of State and of the Department of State with respect to the International Claims Commission and its affairs, exclusive of the functions of the said Secretary and Department under sections 3(c), 4(b), and 5, and the first sentence of section 8(d), of the International Claims Settlement Act of 1949 (64 Stat. 12), as amended [sections 1622(c), 1623(b), 1624 and 1627(d) of Title 22], are hereby transferred to the Commission.

(d) The functions of the Commissioner provided for in the Joint Resolution approved August 4, 1939 (ch. 421, 53 Stat. 1199), together with the functions of the Secretary of State under section 2 thereof, are hereby transferred to the Commission.

§ 3. CERTAIN FUNCTIONS OF CHAIRMAN

There are hereby vested in the Chairman all functions of the Commission with respect to the internal management of the affairs of the Commission, including but not limited to functions with respect to: (a) the appointment of personnel employed under the Commission, (b) the direction of employees of the Commission and the supervision of their official activities, (c) the distribution of business among employees and organizational units under the Commission, (d) the preparation of budget estimates, and (e) the use and expenditure of funds of the Commission available for expenses of administration.

§ 4. ABOLITIONS

(a) The War Claims Commission, provided for in the War Claims Act of 1948 (62 Stat. 1240), as amended [sections 2001-2013 of Appendix to Title 50], and the International Claims Commission, provided for in the International Claims Settlement Act of 1949, as amended [sections 1621-1627 of Title 22], including the offices of the members of each of the said Commissions, and the office of Commissioner provided for in the aforesaid Joint Resolution of August 4, 1939, are hereby abolished.

(b) The functions of the Secretary of State under the third and fourth sentences of section 3(c) of the International Claims Settlement Act of 1949, as amended [section 1622(c) of Title 22], are hereby abolished.

§ 5. AUTHORIZATION TO DELEGATE

The Commission is hereby authorized to delegate any of its functions to one or more persons designated by the Commission from among the members of the Commission and the officers and employees serving under the Commission.

§ 6. TRANSITIONAL PROVISIONS

(a) Any person who is a member or acting member of the War Claims Commission or of the International Claims Commission immediately prior to the taking effect of the provisions of this reorganization plan may be designated by the President as an acting member of the Foreign Claims Settlement Commission of the United States in respect of an office of member the initial appointment to which has not then been made under section 1 of this reorganization plan. Each such acting member of the said Foreign Claims Settlement Commission shall perform the duties and receive the compensation of member. Unless sooner terminated, the tenure of any acting member designated hereunder shall terminate when the office of member concerned is filled in pursuance of section 1 hereof, or 120 days after the effective date of this reorganization plan, whichever is earlier.

(b) The Chairman shall make such provisions as may be necessary with respect to winding up any affairs of the agencies abolished by the provisions of this reorganization plan not otherwise provided for herein.

(c) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available, in connection with the functions transferred by section 2 of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Commission at such time or times as the said Director shall direct.

(d) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (c) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

§ 7. Effective Date

The provisions of this reorganization plan shall take effect on the date determined under section 6(a) of the Reorganization Act of 1949, as amended or the first day of July 1954, whichever is later.

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1954, prepared in accordance with the Reorganization Act of 1949, as amended.

The reorganization plan establishes a new Government agency, the Foreign Claims Settlement Commission of the United States; transfers to that Commission the functions of the War Claims Commission and of the International Claims Commission of the United States; and abolishes the latter two Commissions.

The Foreign Claims Settlement Commission will be composed of three members appointed by the President by and with the advice and consent of the Senate. The President will designate one of the members as Chairman of the Commission. The Chairman will be responsible for the internal management of the affairs of the Commission. The reorganization plan contains provisions designed to assure smooth administration of functions during the period of transition to the new organization.

The War Claims Commission was created as a temporary agency by the War Claims Act of 1948. The Commission was made responsible for settling certain claims of former United States World War II prisoners of war, civilian internees captured or in hiding to avoid capture in the Philippines, Guam, Wake Island, and the Midway Islands, and certain religious organizations in the Philippines which had aided American forces during the war. In 1952, the Commission was assigned, additionally, the administration of claims of Philippine religious organizations which sustained losses of their educational, medical, and welfare facilities in the war, and of benefits to United States prisoners of war for inhumane treatment during internment by the enemy.

From its inception in 1949 to April 1, 1954, approximately 500,000 claims were filed with the War Claims Commission, and approximately $134 million was paid to claimants. Approximately 96,000 remaining claims are in the process of settlement, and the Commission must complete action on them, together with such appeals as may be filed, by March 31, 1955.

The International Claims Commission was established within the Department of State by the International Claims Settlement Act of 1949. Its immediate function was to adjudicate claims covered by a settlement of $17 million which was deposited with the Government of the United States by the Yugoslav Government primarily to compensate our nationals for losses sustained through nationalization of properties. The act also authorized the Commission to settle such claims as might be included later in any similar agreement between the United States and a foreign government. Subsequently, the Commission was assigned the administration of a $400,000 settlement negotiated with the Government of Panama.

From its establishment in 1950 to April 1, 1954, the International Claims Commission has settled 531 claims out of a total of 1,622 filed. Of this total, 1,555 claims were against Yugoslavia and 67 were against Panama. Under the act, settlement of the remaining Yugoslav claims must be completed by December 31, 1954.

The accompanying reorganization plan has substantial potential advantages. The Foreign Claims Settlement Commission will be able to administer any additional claims programs financed by funds derived from foreign governments without the delay which has often characterized the initiation of past programs. Moreover, the use of an existing agency will be more economical than the establishment of a new commission to administer a given type of foreign claims program. Consolidation of the affairs of the two present Commissions will also permit the retention and use of the best experience gained during the last several years in the field of claims settlement. The declining workload of current programs can be meshed with the rising workload of new programs with maximum efficiency and effectiveness.

A proposed new claims program now pending before the Senate would provide benefits similar to those paid to World War II victims under the War Claims Act for losses and internments resulting from hostilities in Korea. The executive branch of the Government has recommended approval of this program by the Congress. I now suggest that this program be assigned by law to the Foreign Claims Settlement Commission.

There should also be assigned to this new Commission the settlement of such of the claims programs as may be authorized from among those recommended by the War Claims Commission in its report made pursuant to section 8 of the War Claims Act. That report, posing many complex policy, legal, and administrative problems, is now being reviewed by executive agencies; and recommendations will soon be sent to the Congress.

By peace treaties and an international agreement, the United States has acquired the right to utilize certain external assets and settlement funds of several countries. A total of about $39 million is available to indemnify claims of United States nationals against the Governments of Rumania, Hungary, Bulgaria, and Italy, arising out of war damage or confiscations in those countries. In addition, claims growing out of United States losses from default on obligations and nationalization of properties may be settled by awards from $9 million realized from an agreement made in 1933 with the Soviet Union, known as the Litvinov assignment. Action by the Congress is necessary before these various funds may be assigned for settlement, and recommendations of the executive branch in this connection will be transmitted at an early date.

In addition to the reorganizations I have described, the reorganization plan transfers to the Foreign Claims Settlement Commission the functions of the Commissioner provided for in the joint resolution of August 4, 1939. These functions involve the receipt and administration of claims covered by the Litvinov assignment. The office of Commissioner, for which funds have never been appropriated and which has never been filled, is abolished.

The reorganization plan does not transfer the war claims fund or the Yugoslav claims fund from the Department of the Treasury, or divest the Secretary of the Treasury of any functions under the War Claims Act of 1948, as amended, or under the International Claims Settlement Act of 1949, as amended. It does not limit the responsibility of the Secretary of State with respect to the conduct of foreign affairs. The reorganizations contained in the reorganization plan will not prejudice any interest or potential interest of any claimant.

After investigation, I have found and hereby declare that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended [section 133z(a) of this title]. I have also found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of officers specified in section 1 of the plan. The rate of compensation fixed for each of these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The statutory citation for certain functions of the Secretary of State with respect to the International Claims Commission which are abolished by the reorganization plan, is the third and fourth sentences of section 3(c) of the International Claims Settlement Act of 1949 (64 Stat. 13), as amended.

It is at this time impracticable to specify the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations contained in the plan.

Reorganization Plan No. 1 of 1954 provides a single agency for the orderly completion of present claims programs. In addition, it provides an effective organization for the settlement of future authorized claims programs by utilizing the experience gained by present claims agencies. It provides unified administrative direction of the functions concerned, and it simplifies the organizational structure of the executive branch. I urge that the Congress allow the reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 29, 1954.

REORGANIZATION PLAN NO. 2 OF 1954

Eff. July 1, 1954, 19 F.R. 3986, 68 Stat. 1280

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 29, 1954, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

LIQUIDATION OF CERTAIN AFFAIRS OF THE RECONSTRUCTION FINANCE CORPORATION

§ 1. TRANSFER OF FUNCTIONS

The functions of the Reconstruction Finance Corporation (hereinafter referred to as the Corporation) with respect to the following-described matters, together with the functions of the Secretary of the Treasury under section 10 of the Reconstruction Finance Corporation Act, as amended [section 609 of Title 15], and under the Reconstruction Finance Corporation Liquidation Act [section 609 note of Title 15, sections 98 and 544 of Title 50 and sections 1929, 2094 and 2261 of Appendix to Title 50], with respect to the said matters, are hereby transferred as follows:

(a) There are transferred to the Export-Import Bank of Washington the said functions relating to:

(1) The loan made by the Corporation to the Republic of the Philippines under section 3 of the Joint Resolution of August 7, 1946 (ch. 811, 60 Stat. 902) [section 606b-5 of Title 15].

(2) The loans made by the Corporation to the Government of Ecuador and the Newfoundland Railway of St. Johns, Newfoundland.

(3) The capital stock of the Banco de Borracha (now known as the Amazon Credit Bank, Belem, Brazil).

(4) All foreign bonds and securities acquired by the Corporation in the liquidation of its lending programs.

(b) There are transferred to the Small Business Administration the said functions relating to loans made by the Corporation to victims of floods or other catastrophes.

(c) There are transferred to the Federal National Mortgage Association the said functions relating to mortgages held by the Corporation which were made or acquired under the authority of the RFC Mortgage Company or the Defense Homes Corporation.

§ 2. TRANSFER OF INCIDENTAL FUNCTIONS

There are hereby transferred to each transferee agency so much of the functions of the Corporation, and so much of the functions of the Secretary of the Treasury under section 10 of the Reconstruction Finance Corporation Act, as amended [section 609 of Title 15], and under the Reconstruction Finance Corporation Liquidation Act [section 609 note of Title 15, sections 98 and 544 of Title 50 and sections 1929, 2094, and 2261 of Appendix to Title 50], as is incidental to, or necessary for, the performance by the transferee agency of the functions specified in section 1(a), (b), or (c) hereof, as the case may be, including, in respect of the functions specified in sections 1(a)(1), 1(b), and 1(c) hereof, the authority to issue notes or other obligations to the Secretary of the Treasury, which may be purchased by the Secretary, under section 7 of the Reconstruction Finance Corporation Act, as amended [section 606 of Title 15], and the duty of making payments on such notes or obligations issued by or transferred to the transferee agency hereunder.

§ 3. TRANSFER OF ASSETS; MISCELLANEOUS TRANSFERS

(a) The loans, bonds, securities, mortgages, and capital stock referred to in section 1 of this reorganization plan, together with accrued interest thereon, property acquired in connection therewith, and contracts and other instruments pertaining thereto, are hereby transferred from the Corporation to the respective transferee agencies.

(b) In addition to the transfers made by section 3 (a), above, there shall be transferred to each transferee agency so much as the Director of the Bureau of the Budget shall determine to be appropriate by reason of transfers made by sections 1, 2, and 3(a) of this reorganization plan of the property, personnel, records, liabilities and commitments of the Corporation and of the authorizations, allocations, and funds available or to be made available to the Corporation or the Treasury Department.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in sections 3(a) and 3(b), above, shall be carried out in such manner and by such agencies as the Director shall direct.

§ 4. DEFINITION

As used in this reorganization plan, the term "transferee agencies" means the Export-Import Bank of Washington, the Small Business Administration, and the Federal National Mortgage Association.

§ 5. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect at the time determined under the provisions of section 6(a) of the Reorganization Act of 1949, as amended or at the close of June 30, 1954, whichever is later, and shall be effective notwithstanding any heretofore enacted provisions of law transferring the duty of completing the liquidation of the assets and the winding up of the affairs of the Corporation.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1954, prepared in accordance with the Reorganization Act of 1949, as amended. The reorganization plan assigns to appropriate agencies the liquidation of certain affairs of the Reconstruction Finance Corporation.

First, the reorganization plan transfers to the Export-Import Bank of Washington loans made to foreign financial institutions and to foreign governments, including a loan to the Republic of the Philippines; all foreign bonds and securities acquired in the liquidation of Corporation lending programs; and functions with respect to the liquidation of those assets. The bank is this Government's principal instrument for the administration of similar matters and can readily integrate the liquidation of the transferred assets with its other activities in the field of foreign finance.

Second, the reorganization plan transfers to the Small Business Administration loans made by the Reconstruction Finance Corporation to victims of floods or other catastrophes, together with the function of liquidating those loans. The Small Business Administration is responsible for a similar loan program. Thus, by this transfer, related activities are concentrated in a single agency for effective administration.

Third, the reorganization plan transfers to the Federal National Mortgage Association, in the Housing and Home Finance Agency, real estate mortgages made or acquired under the authority of the RFC Mortgage Company and the Defense Homes Corporation, and the function of liquidating these assets. The Association is responsible under its basic authority for the servicing, liquidation, and sale of the bulk of residential real estate mortgages held by the Government of the United States. Through its field offices, the Association maintains continuous relationships with lending and investing institutions specializing in home financing. It is, therefore, the Federal agency best situated to liquidate the assets of a similar type transferred to it by the reorganization plan.

Under existing authority, the completion of the liquidation of the assets and the winding up of the affairs of the Reconstruction Finance Corporation will be carried out under the direction of the Secretary of the Treasury after the succession of the Corporation expires on June 30, 1954. The reorganization plan modifies that arrangement by placing responsibility for the completion of each of the activities described above under the jurisdiction of an agency responsible for a similar continuing program. Thus, the reorganization plan facilitates the orderly and expeditious liquidation of the affairs of the Corporation.

It is not, however, practicable at this time to specify the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations contained in the plan.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1954 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I urge that the Congress allow the reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 29, 1954.

REORGANIZATION PLAN NO. 1 OF 1957

Eff. June 30, 1957, 22 F.R. 4633, 71 Stat. 647

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 29, 1957, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

ABOLITION OF THE RECONSTRUCTION FINANCE CORPORATION

SECTION 1. DEFINITIONS

As used in this reorganization plan:

(a) The term "Corporation" means the Reconstruction Finance Corporation.

(b) The term "remaining functions" means (1) all functions of the Corporation, (2) except as otherwise provided in subsections (b) and (c) of section 6 of this reorganization plan, all functions of the Secretary of the Treasury under section 10 of the Reconstruction Finance Corporation Act, as amended (15 U. S. C. 609), and (3) all functions of the Secretary of the Treasury under sections 102 and 106(b) of the Reconstruction Finance Corporation Liquidation Act (67 Stat. 230, 231), as amended [section 609 note of Title 15].

(c) The term "transferees" means the Housing and Home Finance Administrator, the Administrator of General Services, the Administrator of the Small Business Administration, and the Secretary of the Treasury.

SEC. 2. TRANSFER OF FUNCTIONS

(a) There are hereby transferred to the Housing and Home Finance Administrator the remaining functions with respect to or arising out of (1) the securities and obligations of, loans made to, and contracts or other agreements with, States, municipalities, political subdivisions thereof, public agencies, boards, commissions or other public bodies, and (2) loans, securities and obligations acquired in connection with programs of financial assistance for drainage and irrigation projects.

(b) There are hereby transferred to the Administrator of General Services the remaining functions with respect to or arising out of (1) the affairs of the Smaller War Plants Corporation which were transferred to the Corporation pursuant to Executive Order No. 9665 of December 27, 1945 (11 F.R. 3) and section 207 of Public Law 132—80th Congress (61 Stat. 209), (2) the national defense, war and reconversion activities with respect to which notes of the Corporation were cancelled pursuant to the provisions of Title II of Public Law 860—80th Congress (62 Stat. 1187), and (3) activities of the RFC Price Adjustment Board and the functions transferred to the Corporation by Executive Order No. 9841 of April 23, 1947 (12 F.R. 2645).

(c) Except as otherwise provided in sections 2(d)(1) and 2(d)(2) of this reorganization plan (relating to financial assistance to railroads, etc., and to Schedule A hereto annexed), there are hereby transferred to the Administrator of the Small Business Administration the remaining functions with respect to or arising out of programs of financial assistance to business enterprises and to victims of floods or other disasters.

(d) There are hereby transferred to the Secretary of the Treasury all functions of the Corporation not otherwise transferred by the provisions of this reorganization plan, including, but not limited to, all functions of the Corporation with respect to or arising out of (1) programs of financial assistance to railroad companies, financial institutions, and insurance companies, (2) the obligations and loans listed in Schedule A hereto annexed, and (3) the War Damage Corporation.

(e) The foregoing transfers include the transfer to each transferee, for use in executing his respective functions thereunder, of the powers, authority, rights, and immunities now vested in or available or applicable to the Corporation for carrying out the functions transferred to the transferee under this reorganization plan.

SEC. 3. TRANSFER OF ASSETS AND LIABILITIES

The loans, obligations, securities, capital stock, and other assets pertaining to the functions transferred by section 2 of this reorganization plan (including accrued interest thereon, and property acquired in connection therewith) and the liabilities, contracts, bonds, mortgages, notes and other instruments relating thereto are hereby transferred from the Corporation to the respective transferees: *Provided, however,* That all assets, liabilities, and commitments relating to the functions transferred by section 2(a) of this reorganization plan are hereby transferred to the Revolving Fund (Liquidating Programs) established by the Independent Offices Appropriation Act, 1955 (68 Stat. 295) [section 1701g-5 of Title 12].

SEC. 4. ADMINISTRATIVE PROPERTY, PERSONNEL, FUNDS AND RECORDS

In addition to the transfers made by the provisions of section 3 of this reorganization plan, there shall be transferred to the Housing and Home Finance Agency, General Services Administration, Small Business Administration, and Treasury Department so much as the Director of the Bureau of the Budget shall determine to be appropriate by reason of transfers made by sections 2 and 3 of this reorganization plan of the administrative property, personnel, records, liabilities and commitments of the Corporation or of the Office of Production and Defense Lending in the Department of the Treasury and of the authorizations, allocations, and funds available or to be made available with respect to the transferred functions (including, but in no way limiting the generality of the foregoing, the authority to issue notes or other obligations to the Secretary of the Treasury, which may be purchased by the Secretary, under section 7 of the Reconstruction Finance Corporation Act, as amended (15 U.S.C. 606), and the duty of making payments on such notes or obligations issued by or transferred to the respective transferee hereunder). In allocating the administrative expense funds applicable to the functions transferred by the provisions of this reorganization plan the said Director shall allocate and transfer to the General Services Administration as a payment on behalf of the Housing and Home Finance Agency, General Services Administration, Small Business Administration and Treasury Department such sum for rent of building space for the carrying out of the transferred functions during the fiscal year ending June 30, 1958, as the said Director shall determine. Such further measures and disposition as the Director of the Bureau of the Budget shall determine to be necessary in order to effectuate the transfers provided for in this section shall be carried out in such manner and by such agencies as the Director shall direct.

Sec. 5. Delegation of Authority

Each transferee may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, agency, or administrative unit under his jurisdiction of any function transferred to him by the provisions of this reorganization plan.

Sec. 6. Abolition of the Corporation

(a) The Corporation is hereby abolished.

(b) The Secretary of the Treasury shall retire the capital stock of the Corporation and, subject to the provisions of section 4 hereof, shall pay into the Treasury, as miscellaneous receipts, all unused funds of the Corporation.

(c) Not later than June 30, 1959, the Secretary of the Treasury shall transmit a report to the Congress, which report (1) shall cover the affairs of the Corporation up to the time of the taking effect of the provisions of this reorganization plan, and (2) shall correspond to the final report required by section 10 of the Reconstruction Finance Corporation Act, as amended (15 U.S.C. 609). The function of making the final report provided for in the said section 10 is hereby abolished.

Sec. 7. Effective Date

The provisions of this reorganization plan shall take effect at the time determined under the provisions of section 6(a) of the Reorganization Act of 1949, as amended, or at the close of June 30, 1957, whichever is later.

SCHEDULE A

This schedule annexed to Reorganization Plan No. 1 of 1957 lists by name and address of the obligor or borrower the obligations and loans referred to in clause (2) of section 2(d) of such reorganization plan:

Name of obligor or borrower	*Address*
Alaska Plywood Corp	Juneau, Alaska.
Alford Refrigerated Warehouse	Dallas, Tex.
Braun Bros. Packing Co	Troy, Ohio.
Chromcraft Corp	St. Louis, Mo.
Civic Hotel Corp	Odessa, Tex.
Deep Water Terminals, Inc	Brooklyn, N. Y.
Detroit Steel Corp	Detroit, Mich.
Hal Roach Studios, Inc	Culver City, Calif.
Hayward Woolen Co	Whittinsville, Mass.
The Horle Arms Co	Deep River, Conn.
Jack Tar of Arkansas, Inc	Hot Springs, Ark.
Landers Packing Co	Denver, Colo.
Langley Corp	San Diego, Calif.
Lawton Community Hotel	Lawton, Okla.
Lone Star Steel Co	Dallas, Tex.
Louisville Builders Supply Co	Louisville, Ky.
Lustron Corp	Columbus, Ohio.
Mayfair Extension, Inc	Washington, D. C.
New Haven Clock & Watch Co	New Haven, Conn.
Oregon Fibre Products, Inc	Pilot Rock, Oreg.
The Prudence Co., Inc	New York, N. Y.
Seidelhuber Steel Rolling Mills	Seattle, Wash.
South Water Building Corp	Rockford, Ill.
South Water Machinery Corp	Do.
Texas Consolidated Oils	Dallas, Tex.
Texas Frozen Foods Corp	Harlingen, Tex.
Waltham Watch Co	Waltham, Mass.
Wheland Co	Chattanooga, Tenn.

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1957, prepared in accordance with the Reorganization Act of 1949, as amended.

The liquidation of the assets and the winding up of the affairs of the Reconstruction Finance Corporation have been proceeding for the past several years, in accordance with law. Reorganization Plan No. 2 of 1954 expedited and simplified liquidation by transferring certain functions of the Corporation to the Export-Import Bank of Washington, the Small Business Administration, and the Federal National Mortgage Association. Reorganization Plan No. 1 of 1957 transfers all present functions of the Corporation to appropriate officers and abolishes the Corporation.

First, the reorganization plan transfers to the Housing and Home Finance Administrator functions of the Corporation relating to items resulting from programs which provided assistance to States, municipalities, and other public agencies in financing various public projects. Also transferred are functions relating to the liquidation of programs of financial aid for drainage and irrigation projects.

Second, the plan transfers to the Administrator of General Services functions related to the liquidation of matters arising from national defense, war and reconversion activities conducted by the Corporation preceding, during, and subsequent to World War II. Functions relating to the liquidation of the Smaller War Plants Corporation are also transferred to the Administrator.

Third, the plan transfers to the Administrator of the Small Business Administration (1) all of the Corporation's disaster loan functions which were not transferred to the Small Business Administration by Reorganization Plan No. 2 of 1954, and (2) all matters arising out of the Corporation's financial-assistance programs to business enterprises except those relating to assistance to railroads, financial institutions, and insurance companies and those listed in schedule A. The first category consists of items, such as paid loans, charged-off loans and closed files, which were not embraced by Reorganization Plan No. 2 of 1954. The second category includes generally loans or other matters involving outstanding amounts under $250,000 arising under financial-assistance programs to business enterprises, as well as all functions relating to paid or charged-off loans, regardless of amount, under such programs.

Finally, the plan transfers to the Secretary of the Treasury all of the functions of the Corporation not otherwise transferred by the plan. Those functions relate principally to the obligations and loans listed in schedule A, which consist generally of business loans with outstanding principal balances in excess of $250,000, and to financial assistance to railroad companies, financial institutions, and insurance companies. The Secretary of the Treasury will also receive the capital stock of the War Damage Corporation, dissolution of which is expected in the near future when one remaining lawsuit is concluded.

The functions transferred by the reorganization plan are, in general, similar to, and can appropriately be administered in conjunction with, present activities of the respective transferees.

The plan also transfers the pertinent assets of the Corporation to the respective agencies, together with the related liabilities, and by operation of law substitutes the particular transferee for the Corporation with respect to all instruments of every kind and character pertaining to the transferred functions, assets, and liabilities. In order to permit the transferees to administer the transferred matters with the same flexibility of operation as obtains at present, the plan transfers to each transferee those powers, authority, rights, and immunities which are now available or applicable to the Corporation for carrying out the respective functions. To the extent that it becomes necessary or desirable, therefore, the transferees will be enabled, with respect to the transferred functions, to sue and be sued, to engage private attorneys in conjunction with litigation involving the transferred functions, and to avail themselves of any other authority, powers or immunities now available to the Corporation, whether under the Reconstruction Finance Corporation Act, as amended, or otherwise. In enacting the Reconstruction Finance Corporation Liquidation Act the Congress included a provision reading:

> The activities engaged in by the Secretary of the Treasury as a result of the enactment of this Act shall continue to be subject to the provisions of the Government Corporation Control Act.

The Government Corporation Control Act will continue to be applicable to the functions transferred by the reorganization plan.

By transferring the remaining assets and liabilities of the Reconstruction Finance Corporation to officers who conduct continuing programs involving similar functions, the plan will carry out the basic purposes not only of the Reconstruction Finance Corporation Liquidation Act but also of the Reorganization Act of 1949, as amended. The size of the Corporation's portfolio has diminished to such a point that after June 30 it should not be necessary to maintain a separate agency solely for the purpose of administering the remaining assets. The plan will make possible a more economical administration of the Corporation's functions by obviating the expense incident to maintaining a separate organization. It is not, however, practicable at this time to indicate more specifically the reduction of expenditures which it is probable will be brought about by the taking effect of reorganizations contained in the plan.

Incident to the abolition of the Corporation, the reorganization plan (1) abolishes the function of making the final report provided for in section 10 of the Reconstruction Finance Corporation Act, as amended (15 U.S.C. 609), and (2) provides for a final report to the Congress by the Secretary of the Treasury which is to reflect the affairs of the Corporation up to the date of abolition of the Corporation and is to be made not later than June 30, 1959.

After investigation I have found and hereby declare that each reorganization included in the Reorganization Plan No. 1 of 1957 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended

I recommend that the Congress allow the reorganization plan to become effective.

Dwight D. Eisenhower.

The White House, April 29, 1957.

REORGANIZATION PLAN NO. 1 OF 1958

Eff. July 1, 1958, 23 F.R. 4991, 72 Stat. 1799, as amended.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 24, 1958, pursuant to the provisions of the Reorganization Act of 1949, approved June 20, 1949, as amended [see section 901 et seq. of this title].

CIVILIAN MOBILIZATION

SECTION 1. TRANSFER OF FUNCTIONS TO THE PRESIDENT

(a) There are hereby transferred to the President of the United States all functions vested by law (including reorganization plan) in the following: The Office of Defense Mobilization, the Director of the Office of Defense Mobilization, the Federal Civil Defense Administration, and the Federal Civil Defense Administrator.

(b) The President may from time to time delegate any of the functions transferred to him by subsection (a) of this section to any officer, agency, or employee of the executive branch of the Government, and may authorize such officer, agency, or employee to redelegate any of such functions delegated to him.

SEC. 2. OFFICE OF EMERGENCY PREPAREDNESS

[The Office of Emergency Preparedness including the offices of Director and Deputy Director, and all offices of Assistant Director, were abolished by Reorg. Plan No. 1 of 1973, § 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089.]

SEC. 3. REGIONAL DIRECTORS

[All offices of Regional Director of the Office of Emergency Preparedness were abolished by Reorg. Plan No. 1 of 1973, § 3(a)(1), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089.]

SEC. 4. MEMBERSHIP ON NATIONAL SECURITY COUNCIL

[The functions of the Director of the Office of Emergency Preparedness as a member of the National Security Council were abolished by Reorg. Plan No. 1 of 1973, § 3(a)(2), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089.]

SEC. 5. CIVIL DEFENSE ADVISORY COUNCIL

[The Civil Defense Advisory Council, together with its functions, was abolished by Reorg. Plan No. 1 of 1973, § 3(a)(3), eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089.]

SEC. 6. ABOLITIONS

The offices of Federal Civil Defense Administrator and Deputy Administrator provided for in section 101 of the Federal Civil Defense Act (50 U.S.C. App. 2271) and the offices of the Director of the Office of Defense Mobilization and Deputy Director of the Office of Defense Mobilization provided for in section 1 of Reorganization Plan Numbered 3 of 1953 (67 Stat. 634) are hereby abolished. The Director of the Office of Emergency Preparedness shall make such provisions as may be necessary in order to wind up any outstanding affairs of the offices abolished by this section which are not otherwise provided for in this reorganization plan. [Amended Pub. L. 90-608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194.]

SEC. 7. RECORDS, PROPERTY, PERSONAL, AND FUNDS

(a) The records, property, personnel, and unexpended balances, available or to be made available, or appropriations, allocations, and other funds of the Office of Defense Mobilization and of the Federal Civil Defense Administration shall, upon the taking effect of the provisions of this reorganization plan, become records, property, personnel, and unexpended balances of the Office of Emergency Preparedness.

(b) Records, property, personnel, and unexpended balances, available or to be made available, of appropriations, allocations, and other funds of any agency (including the Office of Emergency Preparedness), relating to functions vested in or delegated or assigned to the Office of Defense Mobilization or the Federal Civil Defense Administration immediately prior to the taking effect of the provisions of this reorganization plan, may be transferred from time to time to any other agency of the Government by the Director of the Bureau of the Budget under authority of this subsection for use, subject to the provisions of the Reorganization Act of 1949, as amended, in connection with any of the said functions authorized at time of transfer under this subsection to be performed by the transferee agency.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall determine to be necessary in connection with the provisions of subsections (a) and (b) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate. [Amended Pub. L. 90-608, ch. IV, § 402, Oct. 21, 1968, 82 Stat. 1194.]

SEC. 8. INTERIM PROVISIONS

The President may authorize any person who immediately prior to the effective date of this reorganization plan holds an office abolished by section 6 hereof to hold any office established by section 2; of this reorganization plan until the latter office is filled pursuant to the said section 2 or by recess appointment, as the case may be, but in no event for any period extending more than one hundred and twenty days after the said effective date.

SEC. 9. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect at the time determined under the provisions of section 6(a) of the Reorganization Act of 1949, as amended, or on July 1, 1958, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1958, prepared in accordance with the Reorganization Act of 1949, as amended. The reorganization plan provides new arrangements for the conduct of Federal defense mobilization and civil defense functions.

In formulating Reorganization Plan No. 1, I have had the benefit of several studies made by the executive branch as well as those conducted by the Congress. The reorganization plan will overcome the major difficulties revealed by those studies and mentioned in my 1959 budget message where I made the following statement:

The structure of Federal organization for the planning, coordination, and conduct of our nonmilitary defense programs has been reviewed, and I have concluded that the existing statutes assigning responsibilities for the central coordination and direction of these programs are out of date. The rapid technical advances of military science have led to a serious overlap among agencies carrying on these leadership and planning functions. Because the situation will continue to change and because these functions transcend the responsibility of any single department or agency, I have concluded that they should be vested in no one short of the President. I will make recommendations to the Congress on this subject.

The principal effects of the organization plan are—

First, it transfers to the President the functions vested by law in the Federal Civil Defense Administration and those so vested in the Office of Defense Mobilization. The result is to establish a single pattern with respect to the vesting of defense mobilization and civil defense functions. At the present time disparity exists in that civil defense functions are vested in the President only to a limited degree while a major part of the functions administered by the Office of Defense Mobilization are vested by law in the President and delegated by him to that Office. Under the plan, the broad program responsibilities for coordinating and conducting the interrelated defense mobilization and civil defense functions will be vested in the President for appropriate delegation as the rapidly changing character of the nonmilitary preparedness program warrants.

Second, the reorganization plan consolidates the Office of Defense Mobilization and the Federal Civil Defense Administration to form a new Office of Defense and Civilian Mobilization [Office of Civil and Defense Mobilization] in the Executive Office of the President. I have concluded that, in many instances, the interests and activities of the Office of Defense Mobilization and the Federal Civil Defense Administration overlap to such a degree that it is not possible to work out a satisfactory division of those activities and interests between the two agencies. I have also concluded that a single civilian mobilization agency of appropriate stature and authority is needed and that such an agency will ensue from the consolidation and from the granting of suitable authority to that agency for directing and coordinating the preparedness activities of the Federal departments and agencies and for providing unified guidance and assistance to the State and local governments.

Third, the reorganization plan transfers the membership of the Director of the Office of Defense Mobilization on the National Security Council to the Director of the Office of Defense and Civilian Mobilization [Office of Civil and Defense Mobilization] and also transfers the Civil Defense Advisory Council to the Office of Defense and Civilian Mobilization [Office of Civil and Defense Mobilization].

Intially, the Office of Defense and Civilian Mobilization [Office of Civil and Defense Mobilization] will perform the civil defense and defense mobilization functions now performed by the Office of Defense Mobilization and the Federal Civil Defense Administration. One of its first tasks will be to advise me with respect to the actions to be taken to clarify and expand the roles of the Federal departments and agencies in carrying out nonmilitary defense preparedness functions. After such actions are taken, the direction and coordination of the civil defense and defense mobilization activities assigned to the departments and agencies will comprise a principal remaining responsiblity of the Office of Defense and Civilian Mobilization [Office of Civil and Defense Mobilization].

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1958 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I have also found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of new officers specified in sections 2 and 3 of the plan. The rates of compensation fixed for these officers are, respectively those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The taking effect of the reorganizations included in Reorganization Plan No. 1 of 1958 will immediately reduce the number of Federal agencies by one and, by providing sounder organizational arrangements for the administration of the affected functions, should promote the increased economy and effectiveness of the Federal expenditures concerned. It is, however, impracticable to itemize at this time the reduction of expenditures which it is probable will be brought about by such taking effect.

I urge that the Congress allow the reorganization plan to become effective.

DWIGHT D. EISENHOWER.

THE WHITE HOUSE, April 24, 1958.

REORGANIZATION PLAN NO. 3 OF 1961

Eff. July 3, 1961, 26 F.R. 5989, 75 Stat. 837

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 3, 1961, pursuant to the provisions of the Reorganization Act of 1949, as amended [see section 901 et seq. of this title].

CIVIL AERONAUTICS BOARD

SECTION 1. AUTHORITY TO DELEGATE

(a) In addition to its existing authority, the Civil Aeronautics Board, hereinafter referred to as the "Board", shall have the authority to delegate, by published order or rule, any of its functions to a division of the Board, an individual Board member, a hearing examiner, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter: *Provided, however,* That nothing herein contained shall be deemed to supersede the provisions of section 7(a) of the Administrative Procedure Act (60 Stat. 241) as amended [now section 556 of this title].

(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Board shall retain a discretionary right to review the action of any such division of the Board, individual Board member, hearing examiner, employee or employee board, upon its own initiative or upon petition of a party to or an intervenor in such action, within such time and in such manner as the Board shall by rule prescribe: *Provided, however,* That the vote of a majority of the Board less one member thereof shall be sufficient to bring any such action before the Board for review.

(c) Should the right to exercise such discretionary review be declined, or should no such review be sought within the time stated in the rules promulgated by the Board, then the action of any such division of the Board, individual Board member, hearing examiner, employee or employee board, shall, for all purposes, including appeal or review thereof, be deemed to be the action of the Board.

SEC. 2. TRANSFER OF FUNCTIONS TO THE CHAIRMAN

In addition to the functions transferred by the provisions of Reorganization Plan No. 13 of 1950 (64 Stat. 1266), there are hereby transferred from the Board to the Chairman of the Board the functions of the Board with respect to the assignment of Board personnel, including Board members, to perform such functions as may have been delegated by the Board to Board personnel, including Board members, pursuant to section 1 of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1961, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization in the Civil Aeronautics Board.

This Reorganization Plan No. 3 of 1961 follows upon my message of April 13, 1961, to the Congress of the United States. It is believed that the taking effect of the reorganizations included in this plan will provide for greater efficiency in the dispatch of the business of the Civil Aeronautics Board.

The plan provides for greater flexibility in the handling of the business before the Board, permitting its disposition at different levels so as better to promote its efficient dispatch. Thus matters both of an adjudicatory and regulatory nature may, depending upon their importance and their complexity, be finally consummated by divisions of the Board, individual Board members, hearing examiners, and, subject to the provisions of section 7(a) of the Administrative Procedure Act of 1946 (60 Stat. 241), by other employees. This will relieve the Board members from the necessity of dealing with many matters of lesser importance and thus conserve their time for the consideration of major matters of policy and planning. There is, however, reserved to the Board as a whole the right to review any such decision, report, or certification either upon its own initiative or upon the petition of a party or intervenor demonstrating to the satisfaction of the Board the desirability of having the matter reviewed at the top level.

Provision is also made, in order to maintain the fundamental bipartisan concept explicit in the basic statute creating the Board, for mandatory review of any such decision, report, or certification upon the vote of a majority of the Board less one member.

Inasmuch as the assignment of delegated functions in particular cases and with reference to particular problems to divisions of the Board, to Board members, to hearing examiners, to employees and boards of employees must require continuous and flexible handling, depending both upon the amount and nature of the business, that function is placed in the Chairman by section 2 of the plan.

By providing sound organizational arrangements, the taking effect of the reorganizations included in the accompanying reorganization plan will make possible more economical and expeditious administration of the affected functions. It is, however, impracticable to itemize at this time the reductions of expenditures which it is probable will be brought about by such taking effect.

After investigation, I have found and hereby declare that each reorganization included in the reorganization plan transmitted herewith is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

JOHN F. KENNEDY.

THE WHITE HOUSE, May 3, 1961.

REORGANIZATION PLAN NO. 4 OF 1961

Eff. July 9, 1961, 26 F.R. 6191, 75 Stat. 837

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 9, 1961, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

FEDERAL TRADE COMMISSION

SECTION 1. AUTHORITY TO DELEGATE

(a) In addition to its existing authority, the Federal Trade Commission, hereinafter referred to as the "Commission", shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, a hearing examiner, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter: *Provided, however,* That nothing herein contained shall be deemed to supersede the provisions of section 7(a) of the Administrative Procedure Act (60 Stat. 241), as amended [now section 556 of this title].

(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or employee board, upon its own initiative or upon petition of a party to or an intervenor in such action, within such time and in such manner as the Commission shall by rule prescribe: *Provided, however,* That the vote of a majority of the Commission less one member thereof shall be sufficient to bring any such action before the Commission for review.

(c) Should the right to exercise such discretionary review be declined, or should no such review be sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or employee board, shall, for all purposes, including appeal or review thereof, be deemed to be the action of the Commission.

SEC. 2. TRANSFER OF FUNCTIONS TO THE CHAIRMAN

In addition to the functions transferred by the provisions of Reorganization Plan No. 8 of 1950 (64 Stat. 1264) there are hereby transferred from the Commission to the Chairman of the Commission the functions of the Commission with respect to the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to Commission personnel, including Commissioners, pursuant to section 1 of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of

1961, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization in the Federal Trade Commission.

This Reorganization Plan No. 4 of 1961 follows upon my message of April 13, 1961, to the Congress of the United States. It is believed that the taking effect of the reorganizations included in this plan will provide for greater efficiency in the dispatch of the business of the Federal Trade Commission.

The plan provides for greater flexibility in the handling of the business before the Commission, permitting its disposition at different levels so as better to promote its efficient dispatch. Thus matters both of an adjudicatory and regulatory nature may, depending upon their importance and their complexity, be finally consummated by divisions of the Commission, individual Commissioners, hearing examiners, and, subject to the provisions of section 7(a) of the Administrative Procedure Act (60 Stat. 241), by other employees. This will relieve the Commissioners from the necessity of dealing with many matters of lesser importance and thus conserve their time for the consideration of major matters of policy and planning. There is, however, reserved to the Commission as a whole the right to review any such decision, report or certification either upon its own initiative or upon the petition of a party or intervenor demonstrating to the satisfaction of the Commission the desirability of having the matter reviewed at the top level.

Provision is also made, in order to maintain the fundamental bipartisan concept explicit in the basic statute creating the Commission, for mandatory review of any such decision, report of certification upon the vote of a majority of the Commission less one member.

Inasmuch as the assignment of delegated functions in particular cases and with reference to particular problems to divisions of the Commission, to Commissioners, to hearing examiners, to employees and boards of employees must require continuous and flexible handling, depending both upon the amount and nature of the business, that function is placed in the Chairman by section 2 of the plan.

By providing sound organizational arrangements, the taking effect of the reorganizations included in the accompanying reorganization plan will make possible more economical and expeditious administration of the affected functions. It is, however, impracticable to itemize at this time the reductions of expenditures which it is probable will be brought about by such taking effect.

After investigation, I have found and hereby declare that each reorganization included in the reorganization plan transmitted herewith is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

JOHN F. KENNEDY.

THE WHITE HOUSE, MAY 9, 1961.

REORGANIZATION PLAN NO. 6 OF 1961

Eff. Aug. 12, 1961, 26 F.R. 7541, 75 Stat. 838

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 12, 1961, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

FEDERAL HOME LOAN BANK BOARD

SECTION 1. TRANSFER OF FUNCTIONS

Subject to the provisions of section 2(a) of this reorganization plan, and to the extent not vested in the Chairman of the Federal Home Loan Bank Board (hereinafter referred to as the Chairman) in the absence of this reorganization plan, the executive and administrative functions of the Federal Home Loan Bank Board (hereinafter referred to as the Board), including the following-described functions of the Board, are hereby transferred from the Board to the Chairman:

(1) The appointment and removal of personnel employed under the Board.

(2) The distribution of business among such personnel and among administrative units of the Board.

(3) The direction of personnel who perform, or who supervise the performance of, any function of the Board or of the Chairman or of any agency under the Board.

(4) The communication to personnel employed under the Board of applicable Board policies to be followed by such personnel in the performance of their work and the subsequent enforcement of such policies.

(5) The overall management, functioning, and organization of the Board, including (a) the formulation and implementation of plans and policies designed to increase the effectiveness of the Board in the administration of the laws it is charged with administering and the initiation of ways and means of correcting or preventing avoidable delays in the performance of any work or the disposition of any business before the Board, and (b) the development and improvement of staff support to carry out the functions of the Board.

(6) The preparation, review, and presentation to the Bureau of the Budget of the budget estimates of and other fund authorizations for the Board and the explanation and justification before the appropriate committees of the Congress of the budget estimates for the Board transmitted to the Congress by the President and of other fund authorizations placed before the Congress.

(7) The allocation, use, and expenditure of funds available to the Board for administrative expense purposes.

(8) The calling of the Board into special session whenever any matter of business of the Board so requires, but in any event for the consideration of any matter or business upon request of one or both of the other members of the Board.

SEC. 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

(a)(1) In carrying out any of his functions under the provisions of section 1 hereof the Chairman shall be governed by general policies of the Board and by such regulatory decisions, findings, and determinations as the Board may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Board shall be subject to the approval of the Board.

(3) Personnel employed regularly and full time in the immediate offices of Board members other than the Chairman shall not be affected by the provisions of this reorganization plan.

(b) The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan or of any function vested in the Chairman in consequence of his status as the chief executive officer of the Board.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 6 of 1961, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended, and providing for reorganizations in the Federal Home Loan Bank Board.

Reorganization Plan No. 6 of 1961 relates to my message of April 13, 1961, to the Congress regarding regulatory agencies and, in particular, to that portion of the message advocating the fixing of responsibility for the overall administration of multiheaded agencies in their chairmen. The reorganization plan also is in keeping with actions begun by President Truman, largely through reorganization plans, to strengthen the internal management of multiheaded agencies by making their chairmen, rather than the boards or commissions as a whole, responsible for day-to-day administration.

The first Commission on Organization of the Executive Branch of the Government concluded that purely executive duties can be performed far better by a single administrative official and stated: "Administration by a plural executive is universally regarded as inefficient." Also, as a matter of sound organization, the Congress and the President should be able to hold a single official rather than a group accountable for the effective management of an agency. The reorganization plan will meet both of those needs by placing responsibility and authority for the administration of the activities of the Federal Home Loan Bank Board in the Chairman of the Board. By relieving the Board of day-to-day managerial functions, the reorganization plan will significantly further the ability of the Board to deal more effectively with regulatory and policy matters before it.

Action to strengthen the management of the Federal Home Loan Bank Board and to relieve the Board of day-to-day operating responsibility is particularly needed because of the phenomenal growth of the Board's activities in recent years. By way of example, the number of institutions that are members of the Federal home loan bank system and subject to the Board's supervision has increased from 3,898 in 1950 to 4,552 at present. In the same period the assets of those institutions have increased almost fivefold from $15.4 billion to $71 billion. In fiscal year 1950 the Board examined 2,450 institutions; in fiscal 1961 about 4,224 examinations will be conducted. The personnel of the Board have more than doubled in number in the last decade to handle the increased workload.

Pursuant to Reorganization Plan No. 3 of 1947, the Chairman of the Home Loan Bank Board was made the chief executive officer of the Board, and there was transferred to him the authority to appoint and direct the personnel necessary to perform the functions of the Board, the Chairman, and the agencies under the Board. The Chairman's authority with respect to personnel was returned to the whole Federal Home Loan Bank Board by the Housing Amendments of 1955. The reorganization plan herewith transmitted would restore that authority of the Chairman and further increase his management functions.

Specifically, the reorganization plan will transfer to the Chairman of the Federal Home Loan Bank Board the Board's functions with respect to the overall management, functioning, and organization of the agency; the appointment, removal, and direction of personnel; the distribution of business among, and communication of Board policies to, such personnel; and the enforcement of policies and the general improvement of staff support. There are also transferred to the Chairman functions relating to preparation, review, presentation, and justification of budget estimates and other fund authorizations and those relating to the allocation, use, and expenditure of funds available for administrative expenses.

Nothing in the plan impinges upon the ability of the members of the Board to act independently with respect to substantive matters that come before them for decision, or to participate in the shaping of Board policies. In carrying out his managerial functions, the Chairman will be governed by the policies of the Board and the determinations it is authorized to make. The Board will have the authority to approve the Chairman's appointments of the heads of major administrative units, and the other members of the Board will retain their present control over the personnel in their immediate offices.

The taking effect of the reorganizations included in the accompanying reorganization plan will provide sound organizational arrangements and will make possible more economical and expeditious administration of the affected functions. It is, however, impractical to itemize at this time the reductions in expenditures which it is probable will be brought about by such taking effect.

After investigation, I have found and hereby declare that each reorganization included in the reorganization plan transmitted herewith is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

JOHN F. KENNEDY.

THE WHITE HOUSE, June 12, 1961.

REORGANIZATION PLAN NO. 7 OF 1961

Eff. Aug. 12, 1961, 26 F.R. 7315, 75 Stat. 840

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 12, 1961, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

MARITIME FUNCTIONS

PART I. FEDERAL MARITIME COMMISSION

SECTION 101. CREATION OF FEDERAL MARITIME COMMISSION

(a) There is hereby established a Federal Maritime Commission, hereinafter referred to as the Commission.

(b) The Commission shall not be a part of any executive department or under the authority of the head of any executive department.

SEC. 102. COMPOSITION OF THE COMMISSION

(a) The Commission shall be composed of five Commissioners, who shall be appointed by the President by and with the advice and consent of the Senate. Each Commissioner shall be removable by the President for inefficiency, neglect of duty, or malfeasance in office.

(b) The President shall from time to time designate one of the Commissioners to be the Chairman of the Commission.

(c) Of the first five Commissioners appointed hereunder, one shall be appointed for a term expiring on June 30, 1962, one for a term expiring on June 30, 1963, one for a term expiring on June 30, 1964, and two for terms expiring on June 30, 1965. Their successors shall be appointed for terms of four years, except that any person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he succeeds. Not more than three of the Commissioners shall be appointed from the same political party. A vacancy in the office of any such Commissioner shall be filled in the same manner as the original appointment.

(d) A vacancy in the Commission, so long as there shall be three Commissioners in office, shall not impair the power of the Commission to execute its functions. Any three of the Commissioners in office shall constitute a quorum for the transaction of the business of the Commission and the affirmative votes of any three Commissioners shall be sufficient for the disposition of any matter which may come before the Commission. [Amended Pub. L. 88-426, title III, § 305(19), Aug. 14, 1964, 78 Stat. 425.]

SEC. 103. TRANSFER OF FUNCTIONS TO COMMISSION

The following functions, which are now vested in the Federal Maritime Board under the provisions of Reorganization Plan No. 21 of 1950 (64 Stat. 1273), are hereby transferred from that Board to the Commission:

(a) All functions under the provisions of sections 14-20, inclusive, and sections 22-33, inclusive, of the Shipping Act, 1916, as amended (46 U.S.C. 812-819 and 821-832), including such functions with respect to the regulation and control of rates, services, practices, and agreements of common carriers by water and of other persons.

(b) All functions with respect of the regulation and control of rates, fares, charges, classifications, tariffs, regulations, and practices of common carriers by water under the provisions of the Intercoastal Shipping Act, 1933, as amended (46 U.S.C. 843–848).

(c) The functions with respect to the making of rules and regulations affecting shipping in the foreign trade to adjust or meet conditions unfavorable to such shipping, and with respect to the approval, suspension, modification, or annulment of rules or regulations of other Federal agencies affecting shipping in the foreign trade, under the provisions of section 19 of the Merchant Marine Act, 1920, as amended (46 U.S.C. 876), exclusive of subsection (1)(a) thereof.

(d) The functions with respect to investigating discriminatory rates, charges, classifications, and practices in the foreign trade, and with respect to recommending legislation to correct such discrimination, under the provisions of section 212(e) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1122(f)).

(e) To the extent that they relate to functions transferred to the Commission by the foregoing provisions of this section:

(1) The functions with respect to requiring the filing of reports, accounts, records, rates, charges, and memoranda, under the provisions of section 21 of the Shipping Act, 1916, as amended (46 U.S.C. 820).

(2) The functions with respect to adopting rules and regulations, making reports and recommendations to Congress, subpoenaing witnesses, administering oaths, taking evidence, and requiring the production of books, papers, and documents, under the provisions of sections 204, 208, and 214 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1114, 1118, and 1124).

SEC. 104. TRANSFER OF FUNCTIONS TO CHAIRMAN

There are hereby transferred to the Chairman of the Commission:

(a) The functions of the Chairman of the Federal Maritime Board, including his functions derived from the provisions of Reorganization Plan No. 6 of 1949, to the extent that they relate to the functions transferred to the Commission by the provisions of section 103 of this reorganization plan.

(b) The functions of the Secretary of Commerce to the extent that they are necessary for, or incidental to, the administration of the functions transferred to the Commission by the provisions of section 103 of this reorganization plan.

SEC. 105. AUTHORITY TO DELEGATE

(a) The Commission shall have the authority to delegate, by published order or rule, any of its functions to a division of the Commission, an individual Commissioner, a hearing examiner, or an employee or employee board, including functions with respect to hearing, determining, ordering, certifying, reporting or otherwise acting as to any work, business, or matter: *Provided, however,* That nothing herein contained shall be deemed to supersede the provisions of sections 7(a) of the Administrative Procedure Act (60 Stat. 241), as amended [now section 556 of this title].

(b) With respect to the delegation of any of its functions, as provided in subsection (a) of this section, the Commission shall retain a discretionary right to review the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or employee board, upon its own initiative or upon petition of a party to or an intervenor in such action, within such time and in such manner as the Commission shall by rule prescribe: *Provided, however,* That the vote of a majority of the Commission less one member thereof shall be sufficient to bring any such action before the Commission for review.

(c) Should the right to exercise such discretionary review be declined, or should no such review be sought within the time stated in the rules promulgated by the Commission, then the action of any such division of the Commission, individual Commissioner, hearing examiner, employee or employee board, shall, for all purposes, including appeal or review thereof, be deemed to be the action of the Commission.

(d) There are hereby transferred to the Chairman of the Commission the functions with respect to the assignment of Commission personnel, including Commissioners, to perform such functions as may have been delegated by the Commission to Commission personnel, including Commissioners, pursuant to the foregoing subsections of this section.

PART II. DEPARTMENT OF COMMERCE

SECTION 201. MARITIME ADMINISTRATOR

There shall be at the head of the Maritime Administration (established by the provisions of part II of Reorganization Plan No. 21 of 1950) a Maritime Administrator, hereinafter referred to as the Administrator. The Secretary of Commerce for Maritime Affairs shall, ex officio, be the Administrator. The Administrator shall perform such duties as the Secretary of Commerce shall prescribe. [As amended Pub. L. 91–469, § 38(a), Oct. 21, 1970, 84 Stat. 1036.]

SEC. 202. FUNCTIONS OF SECRETARY OF COMMERCE

(a) Except to the extent inconsistent with the provisions of sections 101(b) or 104(b) of this reorganization plan, there shall remain vested in the Secretary of Commerce all the functions conferred upon the Secretary by the provisions of Reorganization Plan No. 21 of 1950.

(b) There are hereby transferred to the Secretary of Commerce:

(1) All functions of the Federal Maritime Board under the provisions of sections 105(1)–(3), inclusive, of Reorganization Plan No. 21 of 1950.

(2) Except to the extent transferred to the Commission by the provisions of section 103(e) of this reorganization plan, the functions described in the said section 103(e).

(3) Any other functions of the Federal Maritime Board not otherwise transferred by the provisions of part I of this reorganization plan.

(4) Except to the extent transferred to the Chairman of the Commission by the provisions of part I of this reorganization plan, the functions of the Chairman of the Federal Maritime Board.

SEC. 203. DELEGATION OF FUNCTIONS

The provisions of sections 2 and 4 of Reorganization Plan No. 5 of 1950 (64 Stat. 1263) shall be applicable to all functions transferred to the Secretary of Commerce by, or remaining vested in him under, the provisions of this reorganization plan.

PART III. GENERAL PROVISIONS

SECTION 301. CONFLICT OF INTEREST

The provisions of the last sentence of section 201(b) of the Merchant Marine Act, 1936, as affected by the provisions of Reorganization Plan No. 21 of 1950 (46 U.S.C. 1111(b)) (prohibiting the members of the Federal Maritime Board and all officers and employees of that Board or of the Maritime Administration from being in the employ of any other person, firm, or corporation, or from having any pecuniary interest in or holding any official relationship with any carrier by water, shipbuilder, contractor, or other person, firm, association, or corporation with whom the Federal Maritime Board or the Maritime Administration may have business relations) shall hereafter be applicable to the Commissioners composing the Commission and all officers and employees of the Commission. [As Amended Pub. L. 91–469, § 38(b), Oct. 21, 1970, 84 Stat. 1036.]

SEC. 302. INTERIM APPOINTMENTS

Pending the initial appointments hereunder of the Commissioners composing the Commission and of the Maritime Administrator, but not for a period exceeding 90 days, such officers of the executive branch of the Government (including any person who is a member of the Federal Maritime Board or Deputy Maritime Administrator immediately prior to the taking effect of the provisions of this reorganization plan) as the President shall designate under the provisions of this section shall be Acting Commissioners of the Federal Maritime Commission or Acting Maritime Administrator. The President may designate one of such Acting Commissioners as Acting Chairman of the Commission. Any person who is not while serving under an interim appointment pursuant to the foregoing provisions of this section receiving compensation attached to another Federal office shall receive the compensation herein provided for the office wherein he serves in an interim capacity.

SEC. 303. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Commission or to the Chairman of the Commission by the provisions of part I of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Commission at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effecuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(c) Subject to the foregoing provisions of this section, the Secretary of Commerce may transfer within the Department of Commerce personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with functions which were transferred to the Department of Commerce (including the Federal Maritime Board and the Chairman thereof) by the provisions of Reorganization Plan No. 21 of 1950.

SEC. 304. ABOLITION OF FEDERAL MARITIME BOARD

The Federal Maritime Board, including the offices of the members of the Board, is hereby abolished, and the Secretary of Commerce shall provide for the termination of any outstanding affairs of the said Board not otherwise provided for in this reorganization plan.

SEC. 305. STATUS OF PRIOR PLAN

The following provisions of Reorganization Plan No. 21 of 1950 are hereby superseded:

(1) Part I.
(2) Section 202.
(3) Sections 302 to 307, inclusive.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 7 of 1961, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for the reorganization of maritime functions.

The basic objective of the plan is to strengthen and revitalize the administration of our Federal programs concerned with the promotion and development of the U.S. merchant marine by concentrating responsibility in separate agencies for the performance of regulatory and promotional functions. The plan provides, therefore, for the creation of a separate Federal Maritime Commission, composed of five Commissioners, which would be charged with the regulatory functions of the present Federal Maritime Board. There would be transferred from the Federal Maritime Board to the Secretary of Commerce the award of subsidies and related promotional functions. The Secretary of Commerce would retain the functions transferred to him by Reorganization Plan No. 21 of 1950 which reorganized the U.S. Maritime Commission into a Federal Maritime Board and a Maritime Administration in the Department of Commerce. The plan retains the present Maritime Administration, provides for an Administrator as head thereof, retains a Deputy Maritime Administrator, and effects no change in the Office of the Under Secretary of Commerce for Transportation. The Federal Maritime Board is abolished.

Existing organizational arrangements have not proved to be satisfactory. The development and maintenance of a sound maritime industry require that the Federal Government carry out its dual responsibilities for regulation and promotion with equal vigor and effectiveness. Intermingling of regulatory and promotional functions has tended in this instance to dilute responsibility and has led to serious inadequacies, particularly in the administration of regulatory functions. Recent findings by committees of the Congress disclose serious violations of maritime laws and point to the urgent need for a reorganization to vest in completely separate agencies a responsibility for (1) regulatory functions and (2) promotional and operating functions.

The plan would provide the most appropriate organizational framework for each of the functions concerned. Regulation would be made the exclusive responsibility of a separate commission organized along the general lines of other regulatory agencies. On the other hand, nonregulatory functions, including the determination and award of subsidies and other promotional and operating activities, would be concentrated in the head of the Department of Commerce. The Secretary of Commerce is best qualified to coordinate these activities with other transportation and related economic programs.

The vesting of all subsidy functions in the Secretary of Commerce will make it possible for the Congress and the President to hold a single official responsible and accountable for the effective conduct of all aspects of this program, including the size and character of the fleet under the U.S. flag, the need for Government assistance, and requirements for appropriations to support subsidy programs. Furthermore, the placing of these functions in the Secretary of Commerce will assure essential supervision and review of subsidy awards.

The taking effect of the reorganizations included in the accompanying reorganization plan will result in a modest increase in expenditures. The improved organizational alinements provided by the plan will, however, make possible a more effective and expeditious administration of the statutory objectives to foster and promote a U.S. merchant marine capable of meeting the Nation's needs in peace and war. Failure to meet these objectives would be far more costly than the anticipated increase in expenditures under the plan.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 7 of 1961 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I have also found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of new officers specified in sections 102 and 201 of the plan. The rates of compensation fixed for these officers are, respectively, those which I have found to prevail in respect of comparable officers in the executive branch of the Government.

I recommend that the Congress allow the reorganization plan to become effective.

JOHN F. KENNEDY.

THE WHITE HOUSE, June 12, 1961.

FEDERAL MARITIME COMMISSION; TERM OF OFFICE; VACANCIES; CONTINUITY OF SERVICE

Pub. L. 89-56, June 30, 1965, 79 Stat. 195, provided: "That Commissioners of the Federal Maritime Commission, provided for by section 102 of Reorganization Plan Numbered 7 of 1961 (75 Stat. 840), shall hereafter be appointed for a term of five years except that one of the two terms which commence July 1, 1965, shall initially be for four years and thereafter shall be for five years: *Provided, however,* That a person chosen to fill a vacancy shall be appointed only for the unexpired term of the Commissioner whom he succeeds: *Provided, further,* That upon the expiration of his term of office a Commissioner shall continue to serve until his successor shall have been appointed and shall have qualified."

REORGANIZATION PLAN NO. 2 OF 1962

Eff. June 8, 1962, 27 F.R. 5419, 76 Stat. 1253, as amended May 11, 1976, Pub. L. 94-282, title V, § 502, 90 Stat. 472

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled March 29, 1962, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

CERTAIN SCIENCE AGENCIES AND FUNCTIONS

PART I. OFFICE OF SCIENCE AND TECHNOLOGY

SEC. 1. [Repealed. Pub. L. 94-282, title V, § 502, May 11, 1976, 90 Stat. 472. Section established in the Executive Office of the President the Office of Science and Technology.]

SEC. 2. [Repealed. Pub. L. 94-282, title V, § 502, May 11, 1976, 90 Stat. 472. Section authorized the appointment of the Director and Deputy Director of the Office of Science and Technology by the President by and with the advice and consent of the Senate.]

SEC. 3. [Repealed. Pub. L. 94-282, title V, § 502, May 11, 1976, 90 Stat. 472. Section transferred to the Director of the Office of Science and Technology from the National Science Foundation, certain functions formerly conferred upon the Foundation.]

SEC. 4. [Repealed. Pub. L. 94-282, title V, § 502, May 11, 1976, 90 Stat. 472. Section authorized the Director of the Office of Science and Technology to appoint employees necessary for the work of the Office under the classified civil service and fix their compensation in accordance with the classification laws.]

PART II. NATIONAL SCIENCE FOUNDATION

SECTION 21. EXECUTIVE COMMITTEE

(a) There is hereby established the Executive Committee of the National Science Board, hereafter in this Part referred to as the Executive Committee, which shall be composed of five voting members. Four of the members shall be elected as hereinafter provided. The Director provided for in section 22 of this reorganization plan, ex officio, shall be the fifth member and the chairman of the Executive Committee.

(b) At its annual meeting held in 1964 and at each of its succeeding annual meetings the National Science Board, hereafter in this Part referred to as the Board shall elect two of its members as members of the Executive Committee, and the Executive Committee members so elected shall hold office for two years from the date of their election. Any person who has been a member of the Executive Committee (established by this reorganization plan) for six consecutive years shall thereafter be ineligible for service as a member thereof during the two-year period following the expiration of such sixth year. For the purposes of this subsection, the period between any two consecutive annual meetings of the Board shall be deemed to be one year.

(c) At its first meeting held after the effective date of this section the Board shall elect four of its members as members of the Executive Committee. As designated by the Board, two of the Executive Committee members so elected shall hold office as such members until the date of the annual meeting of the Board held in 1964 and the other two members so elected shall hold such office until the annual meeting of the Board held in 1965.

(d) Any person elected as a member of the Executive Committee to fill a vacancy occurring prior to the expiration of the term for which his predecessor was elected shall be elected for the remainder of such term.

(e) The functions conferred upon the Executive Committee now existing under the provisions of the National Science Foundation Act of 1950 [section 1861 et seq. of title 42], by the provisions of section 6 of the National Science Foundation Act of 1950 (42 U.S.C. 1865) or otherwise, are hereby transferred to the Executive Committee established by the provisions of this Part; and the authority of the National Science Board to assign its powers and functions to the now-existing Executive Committee, and statutory limitations upon such assignment, shall hereafter be applicable to the Executive Committee established by the provisions of this Part.

SEC. 22. DIRECTOR

(a) There is hereby established in the National Science Foundation a new office with the title of Director of the National Science Foundation. The Director of the National Science Foundation, hereafter in this Part referred to as the Director, shall be appointed by the President by and with the advice and consent of the Senate. Before any person is appointed as Director the President shall afford the Board an opportunity to make recommendations to him with respect to such appointment. The Director shall serve for a term of six years unless sooner removed by the President. The Director shall not engage in any business, vocation or employment other than that of serving as such Director, nor shall he, except with the approval of the Board, hold any office in, or act in any capacity for, any organization, agency, or institution with which the Foundation makes any contract or other arrangement under the National Science Foundation Act of 1950 [section 1861 et seq. of title 42].

(b) Except to the extent inconsistent with the provisions of section 23(b)(2) of this reorganization plan, all functions of the office of Director of the National Science Foundation abolished by the provisions of 23 (a)(2) thereof are hereby transferred to the office of Director established by the provisions of subsection (a) of this section.

(c) The Director, ex officio, shall be an additional member of the Board and, except in respect of compensation and tenure, shall be coordinate with other members of the Board. He shall be a voting member of the Board and shall be eligible for election by the Board as chairman or vice chairman of the Board. [Amended Pub. L. 88-426, title III, § 305(41), Aug. 14, 1964, 78 Stat. 427.]

SEC. 23. ABOLITIONS

(a) The following agencies now existing under the National Science Foundation Act of 1950 [section 1861 et seq. of Title 42], are hereby abolished:

(1) The Executive Committee of the National Science Board (section 6 of Act; 42 U.S.C. 1865).

(2) The office of Director of the National Science Foundation (sections 2 and 5 of Act; 42 U.S.C. 1861, 1864).

(b) There are also hereby abolished:

(1) The functions conferred upon the National Science Board by that part of section 6(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1865(a)) which reads "The Board is authorized to appoint from among its members an Executive Committee".

(2) The functions of the Director of the National Science Foundation provided for in sections 4(a) and 5 (a) of the National Science Foundation Act of 1950 (42 U.S.C. 1863, 1864(a)) with respect to serving as a nonvoting member of the Board and his functions with respect to serving as a nonvoting member of the Executive Committee provided for in section 6(b) of that Act (42 U.S.C. 1865(b)).

(3) So much of the functions conferred upon divisional committees by the provisions of section 8(d) of the National Science Foundation Act of 1950 (42 U.S.C. 1867(d)) as consists of making recommendations to, and advising and consulting with, the Board.

(c) The provisions of sections 23(a)(1) and 23(b)(1) hereof shall become effective on the date of the first meeting of the Board held after the effective date of the other provisions of this reorganization plan.

PART III. TRANSITIONAL PROVISIONS

SECTION 31. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available, in connection with the functions transferred by the provisions of section 3 of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Office of Science and Technology at such time or times as the said Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 32. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of Part I of this reorganization plan holds a position in the Executive Office of the President to act as Director of the Office of Science and Technology until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may authorize any person who immediately prior to the effective date of section 22 of this reorganization plan holds any office existing under the provisions of the National Science Foundation Act of 1950 [section 1861 et seq. of Title 42] to act as Director of the National Science Foundation until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1962, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended, and providing for certain reorganizations in the field of science and technology.

Part I of the reorganization plan establishes the Office of Science and Technology as a new unit within the Executive Office of the President; places at the head thereof a Director appointed by the President by and with the advice and consent of the Senate and makes provision for a Deputy Director similarly appointed; and transfers to the Director certain functions of the National Science Foundation under sections 3(a)(1) and 3(a)(6) of the National Science Foundation Act of 1950.

The new arrangements incorporated in part I of the reorganization plan will constitute an important development in executive branch organization for science and technology. Under those arrangements the President will have permanent staff resources capable of advising and assisting him on matters of national policy affected by or pertaining to science and technology. Considering the rapid growth and far-reaching scope of Federal activities in science and technology, it is imperative that the President have adequate staff support in developing policies and evaluating programs in order to assure that science and technology are used most effectively in the interests of national security and general welfare.

To this end it is contemplated that the Director will assist the President in discharging the responsibility of the President for the proper coordination of Federal science and technology functions. More particularly, it is expected that he will advise and assist the President as the President may request with respect to—

(1) Major policies, plans, and programs of science and technology of the various agencies of the Federal Government, giving appropriate emphasis to the relationship of science and technology to national security and foreign policy, and measures for furthering science and technology in the Nation.

(2) Assessment of selected scientific and technical developments and programs in relation to their impact on national policies.

(3) Review, integration, and coordination of major Federal activities in science and technology, giving due consideration to the effects of such activities on non-Federal resources and institutions.

(4) Assuring that good close relations exist with the Nation's scientific and engineering communities so as to further in every appropriate way their participation in strengthening science and technology in the United States and the free world.

(5) Such other matters consonant with law as may be assigned by the President to the Office.

The ever-growing significance and complexity of Federal programs in science and technology have in recent years necessitated the taking of several steps for improving the organizational arrangements of the executive branch in relation to science and technology:

(1) The National Science Foundation was established in 1950. The Foundation was created to meet a widely recognized need for an organization to develop and encourage a national policy for the promotion of basic research and education in the sciences, to support basic research, to evaluate research programs undertaken by Federal agencies, and to perform related functions.

(2) The Office of the Special Assistant to the President for Science and Technology was established in 1957. The Special Assistant serves as Chairman of both the President's Science Advisory Committee and the Federal Council for Science and Technology, mentioned below.

(3) At the same time, the Science Advisory Committee, composed of eminent non-Government scientists and engineers, and located within the Office of Defense Mobilization, was reconstituted in the White House Office as the President's Science Advisory Committee.

(4) The Federal Council for Science and Technology, composed of policy officials of the principal agencies engaged in scientific and technical activities, was established in 1959.

The National Science Foundation has proved to be an effective instrument for administering sizable programs in support of basic research and education in the sciences and has set an example for other agencies through the administration of its own programs. However, the Foundation, being at the same organizational level as other agencies, cannot satisfactorily coordinate Federal science policies or evaluate programs of other agencies. Science policies, transcending agency lines, need to be coordinated and shaped at the level of the Executive Office of the President drawing upon many resources both within and outside of Government. Similarly, staff efforts at that higher level are required for the evaluation of Government programs in science and technology.

Thus, the further steps contained in part I of the reorganization plan are now needed in order to meet most effectively new and expanding requirements brought about by the rapid and far-reaching growth of the Government's research and development programs. These requirements call for the further strengthening of science organization at the Presidential level and for the adjustment of the Foundation's role to reflect changed conditions. The Foundation will continue to originate policy proposals and recommendations concerning the support of basic research and education in the sciences, and the new Office will look to the Foundation to provide studies and information on which sound national policies in science and technology can be based.

Part I of the reorganization plan will permit some strengthening of the staff and consultant resources now available to the President in respect of scientific and technical factors affecting executive branch policies and will also facilitate communication with the Congress.

Part II of the reorganization plan provides for certain reorganizations within the National Science Foundation which will strengthen the capability of the Director of the Foundation to exert leadership and otherwise further the effectiveness of administration of the Foundation. Specifically:

(1) There is established a new office of Director of the National Science Foundation and that Director, ex officio, is made a member of the National Science Board on a basis coordinate with that of other Board members.

(2) There is substituted for the now-existing Executive Committee of the National Science Board a new Executive Committeee composed of the Director of the National Science Foundation, ex officio, as a voting member and Chairman of the Committee, and of four other members elected by the National Science Board from among its appointive members.

(3) Committees advisory to each of the divisions of the Foundation will make their recommendations to the Director only rather than to both the Director and the National Science Board.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1962 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I have found and hereby declare that it is necessary to include in the reorganization plan, by reason of reorganizations made thereby, provisions for the appointment and compensation of the Director and Deputy Director of the Office of Science and Technology and of the Director of the National Science Foundation. The rate of compensation fixed for each of these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The functions abolished by the provisions of section 23(b) of the reorganization plan are provided for in sections 4(a), 5(a), 6(a), 6(b), and 8(d) of the National Science Foundation Act of 1950.

The taking effect of the reorganizations included in the reorganization plan will provide sound organizational arrangements and will make possible more effective and efficient administration of Government programs in science and technology. It is, however, impracticable to itemize at this time the reductions in expenditures which it is probable will be brought about by such taking effect.

I recommend that the Congress allow the reorganization plan to become effective.

JOHN F. KENNEDY.

THE WHITE HOUSE, March 29, 1962.

Amendments by Pub. L. 90-407, July 18, 1968, 82 Stat. 360, intended to continue in effect the existing offices, procedures, and organization of the National Science Foundation as provided by chapter 16 (section 1861 et seq.) of Title 42, The Public Health and Welfare, part II of Reorg. Plan No. 2 of 1962, and Reorg. Plan No. 5 of 1965, but on and after July 18, 1968, part II of Reorg. Plan No. 2 of 1962, and Reorg. Plan No. 5 of 1965, as being of no force or affect, and nothing in Pub. L. 90-407 as altering or affecting any transfers of functions made by part I of Reorg. Plan No. 2 of 1962, see section 16 of Pub. L. 90-407, set out as Continuation of Existing Offices, Procedures, and Organization of the National Science Foundation note under section 1862 of Title 42, The Public Health and Welfare.

REORGANIZATION PLAN NO. 1 OF 1963

Eff. July 27, 1963, 28 F.R. 7659, 77 Stat. 869

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 27, 1963, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203 as amended [see section 901 et seq. of this title].

FRANKLIN D. ROOSEVELT LIBRARY

SECTION 1. All functions with respect to the Franklin D. Roosevelt Library now vested in the Secretary of the Interior are hereby transferred to the Administrator of General Services.

SEC. 2. The Administrator of General Services may from time to time make such provisions as he deems appropriate authorizing the performance of any function transferred by the provisions of this reorganization plan by any other officer, or by any employee or agency, of the General Services Administration.

SEC. 3. (a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available or to be made available in connection with the functions transferred by the provisions of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the General Services Administration at such time or times as the said Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 4. Section 401 of Reorganization Plan No. 3 of 1946 (60 Stat. 1099) is hereby superseded.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1963, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for the reorganization of certain functions relating to the Franklin D. Roosevelt Library.

The library project was built under authority of the joint resolution of July 18, 1939. It is located on a site in the town of Hyde Park, Dutchess County, N.Y., donated by the late Franklin D. Roosevelt. The library contains historical material donated by him, and other related historical material.

At the present time responsibility for the library is divided as follows:

(1) The Secretary of the Interior is responsible for the care, maintenance, and protection of the buildings and grounds of the library and for the collection of fees for the privilege of visiting and viewing the exhibit rooms or museum portion of the library, exclusive, however, of the function of fixing the amounts of fees charged.

(2) Responsibility for the contents and professional services of the library, and all other responsibility for the library except as indicated above, are vested in the Administrator of General Services.

When the transfer of functions with respect to the Franklin D. Roosevelt Library from the Secretary of the Interior to the Administrator of General Services, as provided for in the reorganization plan transmitted herewith, becomes effective, the Administrator will have complete responsibility for the library, including its buildings, grounds, contents, and services.

Three other Presidential libraries are now entirely under the jurisdiction of the Administrator of General Services (in pursuance of sec. 507(g) of the Federal Property and Administrative Services Act of 1949, as amended): the Harry S. Truman Library at Independence, Mo., the Herbert Hoover Library at West Branch, Iowa, and the Dwight D. Eisenhower Library at Abilene, Kans. The taking effect of the provisions of the accompanying reorganization plan will place the administration of the Franklin D. Roosevelt Library fully on a common footing with the administration of these three other Presidential libraries.

I am persuaded that the present division of responsibility between the Secretary of the Interior and the Administrator of General Services is not conducive to the most efficient administration of the Franklin D. Roosevelt Library. Reorganization Plan No. 1 of 1963 will apply to this library the preferable pattern of organization existing with respect to other Presidential libraries.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1963 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

The taking effect of reorganizations included in the reorganization plan will provide improved organizational arrangements with respect to the administration of the Franklin D. Roosevelt Library. While such arrangements will further the convenient and efficient carrying out of the purposes of the library, it is impracticable to specify or itemize at this time the reductions of expenditures which it is probable will be brought about by such taking effect.

I recommend that the Congress allow the reorganization plan to become effective.

JOHN F. KENNEDY.

REORGANIZATION PLAN NO. 1 OF 1965

Eff. May 25, 1965, 30 F.R. 7035, 79 Stat. 1317

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 25, 1965, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

BUREAU OF CUSTOMS

SECTION 1. ABOLITION OF OFFICES

All offices in the Bureau of Customs of the Department of the Treasury of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise to which appointments are required to be made by the President, by and with the advice and consent of the Senate, are abolished. The foregoing provisions shall become effective with respect to each office abolished thereby at such time, not later than December 31, 1966, as the Secretary of the Treasury shall specify, but nothing herein shall empower the Secretary to increase the term of any office beyond that provided by law for such office or affect his authority under the first paragraph under the heading "TREASURY DEPARTMENT" appearing in the Act of March 2, 1895 (ch. 187, 28 Stat. 844; 5 U.S.C. 252), to retain in office, prior to December 31, 1966, those persons whose offices are to be terminated under this reorganization plan.

SEC. 2. TRANSFER OF FUNCTIONS

There are transferred to the Secretary of the Treasury the functions, if any, that have been vested by statute in officers, agencies, or employees of the Bureau of Customs of the Department of the Treasury since the effective date of Reorganization Plan No. 26 of 1950 (64 Stat. 1280).

SEC. 3. PRESERVATION OF REMEDIES

The abolition of offices herein shall not prejudice any right to protest or to appeal to the United States Customs Court any action taken in the administration of the customs laws.

SEC 4. INCIDENTAL PROVISIONS

Consonant with section 4 of the Reorganization Act of 1949, as amended [see section 904 of this title] and this reorganization plan, the Secretary of the Treasury shall make such provisions as he shall deem necessary respecting (1) the transfer or other disposition of the records, property, personnel, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, which are affected by a reorganization contained in this reorganization plan; and (2) the winding up of the affairs of any officer whose office is abolished by the provisions of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

All that we do to serve the people of this land must be done, as has been my insistent pledge, with the least cost and the most effectiveness.

In my state of the Union message, I announced it was this administration's intention to "reshape and reorganize" the executive branch. This goal had one objective: "to meet more effectively the tasks of today."

I report today now one step taken forward toward that goal as part of our progress "on new economies we were planning to make."

I submit today a plan for reorganization in the Bureau of Customs of the Department of the Treasury.

At present the Bureau maintains 113 independent field offices, each reporting directly to Customs headquarters in Washington, D.C. Under a modernization program of which this reorganization plan is an integral part, the Secretary of the Treasury proposes to establish six regional offices to supervise all Customs field activities. The tightened management controls achieved from these improvements will make possible a net annual saving of $9 million within a few years.

An essential feature will be the abolition of the offices of all Presidential appointees in the Customs Service. The program cannot be effectively carried out without this step.

The following offices, therefore, would be eliminated: Collectors of customs, comptrollers of customs, surveyors of customs, and appraisers of merchandise, to which appointments are now required to be made by the President by and with the advice and consent of the Senate.

Incumbents of abolished offices will be given consideration for suitable employment under the civil service laws in any positions in customs for which they may be qualified.

When this reorganization is completed, all officials and employees of the Bureau of Customs will be appointed under the civil service laws.

All of the functions of the offices which will be abolished are presently vested in the Secretary of the Treasury by Reorganization Plan No. 26 of 1950 which gives the Secretary power to redelegate these functions. He will exercise this power as the existing offices are abolished.

The estimate of savings that will be achieved by the program of customs modernization and improvement, of which this reorganization plan is a part, is based on present enforcement levels, business volume, and salary scales. Of the amounts saved, approximately $1 million a year will be from salaries no longer paid because of the abolition of offices.

The proposed new organizational framework looks to the establishment of new offices at both headquarters and field levels and abolition of present offices.

This results in a net reduction of more than 50 separate principal field offices by concentration of supervisory responsibilities in fewer officials in charge of regional and district activities. In addition to the six offices of regional commissioner, about 25 offices of district director will be established. The regional commissioners and district directors will assume the overall principal supervisory responsibilities and functions of collectors of customs, appraisers of merchandise, comptrollers of customs, laboratories, and supervising customs agents.

At the headquarters level, four new offices will be established to replace seven divisions. A new position of special assistant to the Commissioner will be created and charged with responsibility for insuring that all Customs employees conduct themselves in strict compliance with all applicable laws and reguations. Up to now this function has been one of a number lodged with an existing division.

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 1 of 1965 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

It should be emphasized that abolition by Reorganization Plan No. 1 of 1965 of the offices of collector of customs, comptroller of customs, surveyor of customs, and appraiser of merchandise will in no way prejudice any right of any person affected by the laws administered by the Bureau of Customs. The rights of importers and others, for example, before the Customs Court, arising out of the administration of such functions will remain unaffected. In addition it should be emphasized that all essential services to the importing, exporting, and traveling public will continue to be performed.

This reorganization plan will permit a needed modernization of the organization and procedure of the Bureau of Customs. It will permit a more effective administration of the customs laws.

I urge the Congress to permit Reorganization Plan No. 1 of 1965 to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, March 25, 1965.

REORGANIZATION PLAN NO. 2 OF 1965

Eff. July 13, 1965, 30 F.R. 8819, 79 Stat. 1318

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 13, 1965, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION, DEPARTMENT OF COMMERCE

SECTION 1. TRANSFER OF FUNCTIONS

All functions vested by law in the Weather Bureau, the Chief of the Weather Bureau, the Coast and Geodetic Survey, the Director of the Coast and Geodetic Survey, and any officer, employee, or organizational entity of that Bureau of Survey, and not heretofore transferred to the Secretary of Commerce, hereinafter referred to as the Secretary, are hereby transferred to the Secretary.

SEC. 2. ABOLITIONS

(a) The offices of Director of the Coast and Geodetic Survey, Deputy Director of the Coast and Geodetic Survey, and Chief of the Weather Bureau are hereby abolished. The Secretary shall make such provisions as he shall deem to be necessary respecting the winding up of any outstanding affairs of the officers whose offices are abolished by the provisions of this section.

(b) The abolitions effected by the provision of subsection (a) of this section shall exclude the abolition of rights to which the present incumbents of the abolished offices would be entitled under law upon the termination of their appointments.

SEC. 3. ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

(a) The Coast and Geodetic Survey and the Weather Bureau are hereby consolidated to form a new agency in the Department of Commerce which shall be known as the Environmental Science Services Administration, hereinafter referred to as the Administration.

(b) The Secretary shall from time to time establish such constituent organizational entities of the Administration, with such names, as he shall determine.

SEC. 4. OFFICERS OF THE ADMINISTRATION

(a) There shall be at the head of the Administration the Administrator of the Environmental Science Services Administration, hereinafter referred to as the Administrator. The Administrator shall be appointed by the President by and with the advice and consent of the Senate. He shall perform such functions as the Secretary may from time to time direct.

(b)(1) There shall be in the Administration a Deputy Administrator of the Environmental Science Services Administration, hereinafter referred to as the Deputy Administrator, who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Secretary may from time to time direct, and, unless he is compensated in pursuance of the provisions of paragraph (2), below, shall receive compensation in accordance with the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of this title].

(2) The office of Deputy Administrator may be filled at the discretion of the President by appointment (by and with the advice and consent of the Senate) from the active list of commissioned officers of the Administration in which case the appointment shall create a vacancy on the active list and while holding the office of Deputy Administrator the officer shall have rank, pay and allowances not exceeding those of a Vice Admiral.

(c) The Deputy Administrator or such other official of the Department of Commerce as the Secretary shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) At any one time, one principal constituent organizational entity of the Administration may, if the Secretary so elects, be headed by a commissioned officer of the Administration, who shall be designated by the Secretary. Such designation of an officer shall create a vacancy on the active list and while serving under this paragraph the officer shall have rank, pay and allowances not exceeding those of a Rear Admiral (upper half).

(e) Any commissioned officer of the Administration who has served as Deputy Administrator or has served in a rank above that of Captain as the head of a principal constituent organizational entity of the Administration, and is retired while so serving or is retired after the completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay and allowances authorized by law for the highest grade and rank held by him; but any such officer, upon termination of his appointment in a rank above that of Captain, shall, unless appointed or assigned to some other position for which a higher rank or grade is provided, revert to the grade and number he would have occupied had he not served in a rank above that of Captain and such officer shall be an extra number in that grade. [As amended Pub. L. 90-83, § 10(c), Sept. 11, 1967, 81 Stat. 224.]

SEC. 5. AUTHORITY OF THE SECRETARY

Nothing in this reorganization plan shall divest the Secretary of any function vested in him by law or by Reorganization Plan No. 5 of 1950 (64 Stat. 1263) or in any manner derogate from any authority of the Secretary thereunder.

SEC. 6. PERSONNEL, PROPERTY, RECORDS AND FUNDS

(a) The personnel (including commissioned officers) employed in the Coast and Geodetic Survey, the personnel employed in the Weather Bureau, and the property and records held or used by the Weather Bureau or the Coast and Geodetic Survey shall be deemed to be transferred to the Administration.

(b) Unexpended balances of appropriations, allocations, and other funds available or to be made available in connection with functions now administered by the Weather Bureau or by the Coast and Geodetic Survey shall be available to the Administration hereunder in connection with those functions.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the foregoing provisions of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 7. INTERIM OFFICERS

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1965, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended, and providing for the reorganization of two major agencies of the Department of Commerce: The Weather Bureau and the Coast and Geodetic Survey.

The reorganization plan consolidates the Coast and Geodetic Survey and the Weather Bureau to form a new agency in the Department of Commerce to be known as the Environmental Science Services Administration. It is the intention of the Secretary of Commerce to transfer the Central Radio Propagation Laboratory of the National Bureau of Standards to the Administration when the reorganization plan takes effect. The new Administration will then provide a single national focus for our efforts to describe, understand, and predict the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth.

Establishment of the Administration will mark a significant step forward in the continual search by the Federal Government for better ways to meet the needs of the Nation for environmental science services. The organizational improvements made possible by the reorganization plan will enhance our ability to develop an adequate warning system for the severe hazards of nature—for hurricanes, tornadoes, floods, earthquakes, and seismic sea waves, which have proved so disastrous to the Nation in recent years. These improvements will permit us to provide better environmental information to vital segments of the Nation's economy—to agriculture, transportation, communications, and industry, which continually require information about the physical environment. They will mean better services to other Federal departments and agencies—to those that are concerned with the national defense, the exploration of outer space, the management of our mineral and water resources, the protection of the public health against environmental pollution, and the preservation of our wilderness and recreation areas.

The new Administration will bring together a number of allied scientific disciplines that are concerned with the physical environment. This integration will better enable us to look at man's physical environment as a scientific whole and to seek to understand the interactions among air, sea, and earth and between the upper and lower atmosphere. It will facilitate the development of programs dealing with the physical environment and will permit better management of these programs. It will enhance our capability to identify and solve important long-range scientific and technological problems associated with the physical environment. The new Administration will, in consequence, promote a fresh sense of scientific dedication, discovery, and challenge, which are essential if we are to attract scientists and engineers of creativity and talent to Federal employment in this field.

The reorganization plan provides for an Administrator at the head of the Administration, and for a Deputy Administrator, each of whom will be appointed by the President by and with the advice and consent of the Senate. As authorized by the civil service and other laws and regulations, subordinate officers of the Administration will be appointed by the Secretary of Commerce or be assigned by him from among a corps of commissioned officers. The Administration will perform such functions as the Secretary of Commerce may delegate or otherwise assign to it and will be under his direction and control.

Commissioned officers of the Coast and Geodetic Survey will become commissioned officers of the Administration and may serve at the discretion of the Secretary of Commerce throughout the Administration. The reorganization plan authorizes the President at his discretion to fill the Office of Deputy Administrator by appointment, by and with the advice and consent of the Senate, from the active list of commissioned officers of the Administration.

The reorganization plan transmitted herewith abolishes—and thus excludes from the consolidation mentioned above—the offices of (1) Chief of the Weather Bureau, provided for in the act of October 1, 1890 (15 U.S.C. 312); (2) Director of the Coast and Geodetic Survey, provided for in the acts of June 4, 1920, and February 16, 1929, as amended (33 U.S.C. 852, 852a); and (3) Deputy Director of the Coast and Geodetic Survey, provided for in the act of January 19, 1942, as amended (33 U.S.C. 852b).

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 2 of 1965 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby delcare that by reason of the reorganizations made by the reorganization plan, it is necessary to include in the plan provisions for the appointment and compensation of the officers of the Administration set forth in section 4 of the reorganization plan. The rate of compensation fixed for each of these officers is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

In addition to permitting more effective management within the Department of Commerce, the new organization will ultimately produce economies. These economies will be of two types. The first, and probably the most significant, is the savings and avoidance of costs which will result from the sharing of complex and expensive facilities such as satellites, computers, communication systems, aircraft, and ships. These economies will increase in significance as developments in science and technology bring into being still more advanced equipment. Second, integration of the existing headquarters and field organizations will permit more efficient utilization of existing administrative staffs and thereby produce future economies. It is, however, impracticable to specify or itemize at this time the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations included in the reorganization plan.

I recommend that the Congress allow the accompanying reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, May 13, 1965.

REORGANIZATION PLAN NO. 3 OF 1965

Eff. July 27, 1965, 30 F.R. 9351, 79 Stat. 1320

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 27, 1965, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

LOCOMOTIVE INSPECTION

SECTION 1. TRANSFER OF FUNCTIONS TO INTERSTATE COMMERCE COMMISSION

Except to the extent inconsistent with the provisions of section 2(b) hereof, all functions now vested in the director of locomotive inspection, assistant directors of locomotive inspection, and district inspectors of locomotives, including the functions so vested by the Act of February 17, 1911, ch. 103, 36 Stat. 913, as amended (45 U.S.C. 22-29; 30-34), and by section 2 of the Act of March 4, 1915, ch. 169, 38 Stat. 1192, as amended (45 U.S.C. 30), are hereby transferred to the Interstate Commerce Commission.

SEC. 2. ABOLITIONS

(a) All offices of director of locomotive inspection, assistant director of locomotive inspection, and district inspector of locomotives, provided for in the Acts referred to above (45 U.S.C. 22-34), are hereby abolished. The Interstate Commerce Commission shall make such provisions as it deems to be necessary respecting the winding up of any outstanding affairs of the officers whose offices are abolished by the provisions of this reorganization plan.

(b) The functions with respect to dividing the territory comprising the several States and the District of Columbia into fifty locomotive boiler-inspection districts, vested in the director of locomotive inspection by section 4 of the above-mentioned Act of February 17, 1911 (45 U.S.C. 26), are hereby abolished.

SEC. 3. PERFORMANCE OF FUNCTIONS

The Interstate Commerce Commission may from time to time make such provisions as it shall deem appropriate authorizing the performance by any officer, employee, or organizational entity under the Commission of any function transferred to the Commission by the provisions of section 1 of this reorganization plan, but the Commission may not make any such provision which is in conflict with section 17(2) of the Interstate Commerce Act [section 17(2) of Title 49, Transportation].

SEC. 4. RECORDS, PROPERTY AND FUNDS

(a) Consonant with section 4 of the Reorganization Act of 1949, as amended and this reorganization plan, the Interstate Commerce Commission shall make such provisions as it shall deem necessary respecting the transfer or other disposition of the records and property which are affected by a reorganization contained in this reorganization plan.

(b) Unexpended balances of appropriations, allocations, and other funds, available or to be made available for the Interstate Commerce Commission for expenses necessary to carry out locomotive inspection activities, shall continue to be available therefor under this reorganization plan.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the foregoing provisions of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. PERSONNEL

(a) The Interstate Commerce Commission may employ and compensate such personnel as may be necessary to carry out the functions transferred to the Commission by this reorganization plan under the classified civil service and pursuant to the Classification Act of 1949, as amended [chapter 51 and subchapter III of chapter 53 of Title 5].

(b) The Interstate Commerce Commission shall appoint to a position under the classified civil service, without change in grade or salary, each person who immediately prior to the taking effect of this reorganization plan held the office of district inspector of locomotives. Such appointments shall be deemed to be made without any break in the service of any individual concerned and the provisions of this reorganization plan shall not be deemed to effect an involuntary separation of any district inspector of locomotives for the purposes of section 6(d) of the Civil Service Retirement Act (5 U.S.C. 2256(d) [now covered by section 8336 of this title]) or for the purposes of any other provision of law.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1965, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of the locomotive inspection activities of certain personnel employed by or attached to the Interstate Commerce Commission.

I have stressed that we must reorganize and modernize the Government's organization structure in order to focus responsibilities, increase efficiency, and meet present-day needs more effectively. The reorganization plan, which accords with recommendations made to me by the Interstate Commerce Commission, supports these objectives. It will make possible necessary changes in the organization and administration of the Commission's railroad safety operations.

The Commission's ability to organize and carry out most effectively its responsibilities for railroad safety is now severely limited by certain anachronistic provisions of the locomotive inspection statutes. These provisions go back to an earlier period before steam locomotives were replaced almost completely by diesel engines. At that time locomotive boilers were temperamental and dangerous and special measures were required to enforce adequate safety standards. Present law specifies in detail the method of appointing locomotive inspectors, the functions to be performed by them, and the organization structure for administering inspection activities. While these provisions may have been suited to conditions 50 years ago, they are clearly inappropriate today.

Progress in railroad technology has not eliminated the need for locomotive inspection. Locomotive inspection is still essential for the safety of employees, passengers, and cargo. The Interstate Commerce Commission, however, properly should not be held to account for the performance of this important function as long as it lacks authority to make those changes in organization and operations which it deems necessary to meet current safety needs and to promote maximum economy and efficiency. The primary purpose of the accompanying reorganization plan is to terminate outdated arrangements which now stand in the way of the most effective management of the Commission's railroad safety program.

Organizational flexibility is at present restricted by the statutory requirement that there be 50 locomotive inspection districts and at least 1 inspector for each such district. The number of inspectors and districts cannot be adjusted to accommodate to changes in workload or other relevant factors.

Locomotive inspection is rigidly separated from related railroad safety activities performed under the Interstate Commerce Commission. The locomotive inspection statutes restrict inspectors of locomotives to the inspection of locomotives only and prevent the inspection of locomotives (except brakes and safety appliances) by other Commission railroad safety personnel. Thus, the Commission is prevented from making the most effective utilization of its total staff of locomotive and train inspectors. In order to eliminate the present uneconomical duplicate visits to railroad yards and otherwise to promote the most economical and effective administration of its railroad safety responsibilities, the Commission should have the authority to assign staff to duties for which they may be qualified by training and experience. The reorganization plan will make this possible.

Organizational flexibility is hampered further by the provision for Presidential appointment and Senate confirmation of a director and two assistant directors of locomotive inspection. Originally, these officials were to be selected with reference to their practical knowledge of the construction and repair of boilers. Later amendments broadened their responsibilities to embrace all parts of the locomotive and tender. These clearly are not policymaking positions, warranting Presidential appointment. As is now the case with other comparable positions where appointments should be based primarily on professional and technical qualifications, personnel supervising locomotive inspection functions should be appointed under the classified civil service.

By eliminating the present cumbersome restrictions on inspection districts, the duties of locomotive inspectors, and the appointment of the director and assistant directors of locomotive inspection, the plan will make it possible for the Commission to utilize its personnel more efficiently, integrate the work performed by locomotive inspectors with that performed by other Commission railroad safety inspectors, and take full advantage of recent improvements in the organization of the Commission's central office and field activities.

Upon the taking effect of the reorganization plan—

(1) All functions of the director of locomotive inspection, the assistant directors of locomotive inspection, and district locomotive inspectors will be transferred to the Interstate Commerce Commission. Suitable powers of delegation with respect to the functions so transferred will be conferred upon the Commission.

(2) The position of director of locomotive inspection, the two positions of assistant director of locomotive inspection, and all positions of district locomotive inspector will be abolished. The Commission will be required to appoint to a position under the classified civil service, as provided in the reorganization plan, each person who immediately prior to the taking effect of the plan held the office of district inspector of locomotives; such appointments will be deemed to be made without any break in service.

(3) The function of dividing the territory comprising the several States and the District of Columbia into 50 locomotive-boiler-inspection districts will be abolished.

After investigation, I have found and hereby declare that each reorganization included in the reorganization plan transmitted herewith is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that, by reason of the reorganizations made by the reorganization plan, it is necessary to include in the plan the provisions contained in section 5 thereof. The rates of compensation thereunder are those which I have found to prevail in respect of comparable positions in the executive branch of the Government.

The statutory authority for the exercise of the functions to be abolished by section 2(b) of the reorganization plan is contained in section 4 of the act of February 17, 1911 (ch. 103, 36 Stat. 914, as amended).

The reorganizations provided for in the reorganization plan will produce some immediate savings and significant long-range economies. The latter will result from future improvements in the organization and administration of the affected functions made possible by the plan. Since the plan will open the way for the more effective utilization of safety inspection staffs of the Interstate Commerce Commission, it will yield a significantly increased measure of safety inspection activity for each dollar spent for this purpose. It is, however, impracticable to specify or itemize at this time the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations included in the reorganization plan.

Under the accompanying reorganization plan, all essential Government railroad safety services to the traveling public and employees will continue to be performed. The plan provides urgently needed modernization of the organization and procedures in the Interstate Commerce Commission's railroad safety program. I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, May 27, 1965.

TRANSFER OF FUNCTIONS

All functions, powers, and duties of the Interstate Commerce Commission and of the Chairman, members, officers, and offices thereof, under Reorg. Plan No. 3 of 1965, relating generally to safety appliances and equipment on railroad engines and cars, and the protection of employees and travelers, were transferred to and vested in the Secretary of Transportation by Pub. L. 89-670, Oct. 15, 1966, 80 Stat. 931. See section 1655(e)(1)(G) of Title 49, Transportation.

REORGANIZATION PLAN NO. 4 OF 1965

Eff. July 27, 1965, 30 F.R. 9353, 79 Stat. 1321

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 27, 1965, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

ABOLITION OF CERTAIN COMMITTEES, COUNCILS, AND BOARDS

PART I

SECTION 1. TRANSFER OF FUNCTIONS

All functions of each of the following-named bodies, together with all functions of the Chairman and of other officers of each thereof, are hereby transferred to the President of the United States:

(a) The National Housing Council, provided for in section 6 of Reorganization Plan No. 3 of 1947 (61 Stat. 955) as affected by (i) section 502(a) of the Housing Act of 1948 (62 Stat. 1283; 12 U.S.C. 1701c), (ii) section 603 of the Housing Act of 1949 (63 Stat. 440; 12 U.S.C. 1701i) and by (iii) section 615 of the Defense Housing and Community Facilities and Services Act of 1951 (65 Stat. 317; 12 U.S.C. 1701i-1).

(b) The National Advisory Council on International Monetary and Financial Problems, provided for in section 4 of the Bretton Woods Agreements Act, 59 Stat. 512, as amended (22 U.S.C. 286b).

(c) The Board of the Foreign Service, provided for in section 211 of the Foreign Service Act of 1946, 60 Stat. 1001 (22 U.S.C. 826).

(d) The Board of Examiners for the Foreign Service, provided for in section 212 of the Foreign Service Act of 1946 (22 U.S.C. 827).

(e) The Civilian-Military Liaison Committee, provided for in section 204 of the National Aeronautics and Space Act of 1958, 72 Stat. 431, as amended (42 U.S.C. 2474).

SEC. 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The President may from time to time make such provisions as he may deem appropriate authorizing the performance of the functions transferred by the provisions of section 1 of this reorganization plan by any other officers of the executive branch of the Government or by any agencies or employees of that branch.

SEC. 3. ABOLITION OF BODIES

(a) Each of the bodies referred to in paragraphs (a) to (e), inclusive, of section 1 of this reorganization plan is hereby abolished.

(b) The President shall make or cause to be made such provisions as may be necessary with respect to the winding up of any outstanding affairs of the bodies abolished by the provisions of section 3 of this reorganization plan.

Part II

Section 11. Transfer of Functions

(a) [Repealed. Pub. L. 90-83, § 10(c), Sept. 11, 1967, 81 Stat. 224. Subsection transferred to the Chairman of the United States Civil Service Commission all functions of the Advisory Council on Group Insurance, provided for in section 12(a) of the Federal Employees' Group Life Insurance Act of 1954, 68 Stat. 742 (5 U.S.C. 2101(a) [now covered by section 8713(a)(1)—(3) of this title]).]

(b) There are hereby transferred to the Administrator of the Small Business Administration all functions of the Loan Policy Board of the Small Business Administration, provided for in section 4(d) of the Small Business Act, 72 Stat. 385 (15 U.S.C. 633(d)).

(c) There are hereby transferred to the Secretary of the Interior all functions of the advisory board provided for in section 2(a) of the Act of August 20, 1937, 50 Stat. 732, as amended (16 U.S.C. 832a(a)), commonly referred to as the Bonneville Power Advisory Board.

(d) There are hereby transferred to the Attorney General all functions of the Awards Board provided for in section 3 of the Atomic Weapons Rewards Act of 1955, 69 Stat. 365 (50 U.S.C. 47b).

(e) The transfers made by subsections (a) to (d), inclusive, of this section shall be deemed to include all functions of the Chairman and of other officers of the respective transferor bodies referred to in those subsections. [Subsection repealed by Pub. L. 90-83, § 10(c), Sept. 11, 1967, 81 Stat. 224, insofar as applicable to subsection (a) of this section.]

Sec. 12. Performance of Transferred Functions

Each officer to whom functions are transferred by the provisions of section 11 of this reorganization plan may from time to time make such provisions as he may deem appropriate authorizing the performance of the functions so transferred to him by his subordinate officers, employees, or agencies. [Section repealed by Pub. L. 90-83, § 10 (c), Sept. 11, 1967, 81 Stat. 224, insofar as applicable to section 11(a) of this Reorg. Plan.]

Sec. 13. Abolitions

(a) Each of the bodies the functions of which are transferred by the provisions of section 11 of this reorganization plan is hereby abolished. Each officer to whom functions are transferred by those provisions shall make such provisions as may be necessary with respect to the winding up of any outstanding affairs of the body or bodies the functions of which are so transferred to him.

(b) The functions vested in the Secretary of Health, Education, and Welfare by the provisions of section 7(b) of the Juvenile Delinquency and Youth Offenses Control Act of 1961, 75 Stat. 574 (42 U.S.C. 2546(b) [now covered by section 3889 of Title 42]), are hereby abolished. [Section repealed by Pub. L. 90-83, § 10(c), Sept. 11, 1967, 81 Stat. 224, insofar as applicable to section 11(a) of this Reorg. Plan.]

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1965, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganizations of various committees and other similar bodies.

The strength and vitality of our democracy depends in major part upon the Federal Government's adaptability, on its capacity for fast flexible response to changing needs imposed by changing circumstances. If we are to maintain this capacity, we must have a government that is streamlined and capable of quickly adjusting and readjusting its organization and operating procedures to take up and surmount new challenges.

As government grows more complex and programs increasingly cut across traditional agency lines, we must exercise special care to prevent the continuance of obsolete interagency committees and other coordinating devices which waste time and delay action and the undue proliferation of new committees. Interagency committees are a valuable and often indispensable means for facilitating coordination, but we should be sure that a committee is the most efficient way to accomplish a given task and that it is structured to meet current needs effectively.

At my direction, guidelines for the management of interagency committees have been established. I have recently asked the heads of departments and agencies to give their personal attention to a complete review of all the interagency committees in which their agencies participate to determine which ones might be eliminated, consolidated or otherwise reorganized. We will take appropriate action to obtain essential improvements in the organization and use of those committees which have been established by the executive branch.

The reorganizations accomplished by the reorganization plan transmitted herewith will enable us to take similar action with respect to a number of committees which have been established by statute. In many instances the statutory provisions creating these committees are very specific as to membership and describe in detail the functions to be performed. These provisions are rarely sufficiently flexible to permit the membership or role of the committees to be accommodated to changing circumstances or to permit their termination when they have outlived their usefulness.

The accompanying reorganization plan will abolish nine statutory committees. In each case the responsibility for providing suitable arrangements to assure effective consultation and coordination is placed in a specific official. Wherever the continuing need for and usefulness of a committee has been demonstrated, I would anticipate the establishment of a successor committee along he general lines of the body now provided by law. Certainly prompt action will be taken to create successor committees to such bodies as the Board of Foreign Service and the National Advisory Council on International Monetary and Financial Problems. But we will have the flexibility promptly to make such changes in functions and membership as might be required to eliminate overlapping and duplication and to adjust to the development of new programs and shifts in executive branch responsibilities.

A number of the committees affected by the reorganization plan are advisory to the President or have functions which are closely related to responsibilities already vested in the President. The functions of those committees will be transferred to the President by the reorganization plan. The functions of the others will be transferred to the appropriate individual agency heads.

The management and control of interagency committees have been a matter of growing concern to both the executive branch and the Congress. The taking effect of the reorganization plan will contribute significantly to better management of interagency committees and will assist efforts to simplify and modernize coordinating arrangements within the executive branch.

Executive Order No. 10940 of May 11, 1961, provides for the President's Committee on Juvenile Delinquency and Youth Crime. The Secretary of Health, Education, and Welfare is required to consult with that committee on matters of general policy and procedure arising in the administration of the Juvenile Delinquency and Youth Offenses Control Act of 1961 and to consider certain recommendations of that committee (42 U.S.C. 2546(b)). To require the Secretary by law to consult with a committee established by Executive order is clearly anomalous. The plan abolishes the relevant functions of the Secretary with respect to consulting and considering the recommendations of the President's Committee. The reorganization plan does not otherwise affect the Committee; it has no effect upon Executive Order No. 10940. The statutory authority for the exercise of the functions to be abolished by section 13(b) of the reorganization plan is contained in section 7(b) of the Juvenile Delinquency and Youth Offenses Control Act of 1961 (75 Stat. 574).

After investigation I have found and hereby declare that each reorganization included in Reorganization Plan No. 4 of 1965 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

Although the reorganizations provided for in the reorganization plan will not of themselves result in immediate savings, the improvement achieved in administration will in the future allow the performance of the affected functions at lower costs and in a more timely manner than at present. It is, however, impracticable to specify or itemize at this time the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations included in the reorganization plan.

I recommend that the Congress allow the accompanying reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, May 27, 1965.

REORGANIZATION PLAN NO. 5 OF 1965

Eff. July 27, 1965, 30 F.R. 9355, 79 Stat. 1323

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, May 27, 1965, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

NATIONAL SCIENCE FOUNDATION

SECTION 1. ABOLITION OF COMMITTEES

There are hereby abolished all functions of the (divisional) committees provided for in section 8 of the National Science Foundation Act of 1950 (64 Stat. 152; 42 U.S.C. 1867), all functions with respect to the appointment of committees under that section, and all committees now existing under that section. The Director of the National Science Foundation shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the committees abolished by the section.

SEC. 2. AUTHORITY TO DELEGATE

The Director of the National Science Foundation may from time to time make such provisions as he shall deem appropriate authorizing the performance by any other officer, or by any agency or employee, of the National Science Foundation of any of his functions (including functions delegated to him by the National Science Board).

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 5 of 1965, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended, and providing for certain reorganizations relating to the National Science Foundation.

The plan contains two reorganization measures. First, all committees provided for in section 8 of the National Science Foundation Act of 1950 would be abolished. That section provides that there shall be a committee for each division of the Foundation, having not less than five members who are appointed by the National Science Board for 2-year terms. Section 8, as affected by section 23(b)(3) of Reorganization Plan No. 2 of 1962 (76 Stat. 1255), directs each such committee to make recommendations to and advise and consult with the Director of the National Science Foundation with respect to matters relating to the program of its division. Originally the Foundation had three such committees, corresponding to its three divisions. With the growth of the Foundation, five additional divisions have been established; consequently the Foundation, in accordance with the requirements of section 8, now has eight divisional committees. This multiplication in the number of committees has proved cumbersome. For example, three committees are now concerned with scientific personnel and education matters instead of the original one committee, even though one committee is all that is required to meet the Foundation's needs in this area. The elimination of the various statutory divisional committees will simplify the structure of the Foundation and improve its administration.

The second reorganization measure contained in the accompanying reorganization plan would empower the Director of the National Science Foundation to delegate functions vested in him by law or delegated to him by the National Science Board. The expanding responsibilities of the Foundation and the Director indicate that it is necessary that the Director clearly have such authority.

Upon the taking effect of the reorganization plan, the National Science Foundation will institute such new arrangements, in lieu of the divisional committees now required by law, as it deems appropriate. Such new arrangements may include the establishment of committees under section 6 of the National Science Foundation Act of 1950 and such other devices for obtaining advice as may be available to the Foundation.

After investigation, I have found and hereby declare that each reorganization included in the reorganization plan transmitted herewith is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

The reorganization plan will permit more effective management of the affairs of the National Science Foundation. It is, however, impracticable to specify or itemize at this time the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations included in the reorganization plan.

The statutory authority for the exercise of certain functions which would be abolished by section 1 of the reorganization plan is contained in section 8 of the National Science Foundation Act of 1950, 64 Stat, 152.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, May 27, 1965.

Amendments by Pub. L. 90-407, July 18, 1968, 82 Stat. 360, intended to continue in effect the existing offices, procedures, and organization of the National Science Foundation as provided by chapter 16 (section 1861 et seq.) of Title 42, The Public Health and Welfare, part II of Reorg. Plan No. 2 of 1962, and Reorg. Plan No. 5 of 1965, but on and after July 18, 1968, part II of Reorg. Plan No. 2 of 1962, and Reorg. Plan No. 5 of 1965, as being of no force or affect, and nothing in Pub. L. 90-407 as altering or affecting any transfers of functions made by part I of Reorg. Plan No. 2 of 1962, see section 16 of Pub. L. 90-407, set out as Continuation of Existing Offices, Procedures, and Organization of the National Science Foundation note under section 1862 of Title 42, the Public Health and Welfare.

REORGANIZATION PLAN NO. 1 OF 1966

Eff. Apr. 22, 1966, 31 F.R. 6187, 80 Stat. 1607

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 10, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

COMMUNITY RELATIONS SERVICE

SECTION 1. TRANSFER OF SERVICE

Subject to the provisions of this reorganization plan, the Community Relations Service now existing in the Department of Commerce under the Civil Rights Act of 1964 (Pub. L. No. 88-352, July 2, 1964) [see Short Title note under 42 U.S.C. § 2000a] including the office of Director thereof, is hereby transferred to the Department of Justice.

SEC. 2. TRANSFER OF FUNCTIONS

All functions of the Community Relations Service, and all functions of the Director of the Community Relations Service, together with all functions of the Secretary of Commerce and the Department of Commerce with respect thereto, are hereby transferred to the Attorney General.

SEC. 3. INCIDENTAL TRANSFERS

(a) Section 1 hereof shall be deemed to transfer to the Department of Justice the personnel, property, and records of the Community Relations Service and the unexpended balances of appropriations, allocations, and other funds available or to be made available to the Service.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 1 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of community relations functions in the area of civil rights.

After a careful review of the activities of the Federal agencies involved in the field of civil rights, it became clear that the elimination of duplication and undesirable overlap required the consolidation of certain functions.

As a first step, I issued Executive Orders 11246 and 11247 on September 24, 1965.

Executive Order 11246 simplified and clarified executive branch assignments of responsibility for enforcing civil rights policies and placed responsibility for the Government-wide coordination of the enforcement activities of executive agencies in the Secretary of Labor with respect to employment by Federal contractors and in the Civil Service Commission with respect to employment by Federal agencies.

Executive Order 11247 directed the Attorney General to assist Federal agencies in coordinating their enforcement activities with respect to title VI of the Civil Rights Act of 1964, which prohibits discrimination in federally assisted programs.

As a further step for strengthening the operation and coordination of our civil rights programs, I now recommend transfer of the functions of the Community Relations Service, established in the Department of Commerce under title X of the Civil Rights Act of 1964, to the Attorney General and transfer of the Service, including the Office of Director, to the Department of Justice.

The Community Relations Service was located in the Department of Commerce by the Congress on the assumption that a primary need would be the conciliation of disputes arising out of the public accommodations title of the act. That decision was appropriate on the basis of information available at that time. The need for conciliation in this area has not been as great as anticipated because of the voluntary progress that has been made by businessmen and business organizations.

To be effective, assistance to communities in the identification and conciliation of disputes should be closely and tightly coordinated. Thus, in any particular situation that arises within a community, representatives of Federal agencies whose programs are involved should coordinate their efforts through a single agency. In recent years, the Civil Rights Division of the Justice Department has played such a coordinating role in many situations, and has done so with great effectiveness.

Placing the Community Relations Service within the Justice Department will enhance the ability of the Justice Department to mediate and conciliate and will insure that the Federal Government speaks with a unified voice in those tense situations where the good offices of the Federal Government are called upon to assist.

In this, as in other areas of Federal operations, we will move more surely and rapidly toward our objectives if we improve Federal organization and the arrangements for interagency coordination. The accompanying reorganization plan has that purpose.

The present distribution of Federal civil rights responsibilities clearly indicates that the activities of the Community Relations Service will fit most appropriately in the Department of Justice.

The Department of Justice has primary program responsibilities in civil rights matters and deep and broad experience in the conciliation of civil rights disputes. Congress has assigned it a major role in the implementation of the Civil Rights Acts of 1957, 1960, and 1964, and the Voting Rights Act of 1965. The Department of Justice performs related functions under other acts of Congress. Most of these responsibilities require not only litigation, but also efforts at persuasion, negotiation, and explanation, especially with local governments and law enforcement authorities. In addition, under the Law Enforcement Assistance Act the Department will be supporting local programs in the area of police-community relations.

The test of the effectiveness of an enforcement agency is not how many legal actions are initiated and won, but whether there is compliance with the law. Thus, every such agency necessarily engages in extensive efforts to obtain compliance with the law and the avoidance of disputes. In fact, title VI of the Civil Rights Act of 1964 requires each agency concerned to attempt to obtain compliance by voluntary means before taking further action.

Among the heads of Cabinet departments the President looks principally to the Attorney General for advice and judgment on civil rights issues. The latter is expected to be familiar with civil rights problems in all parts of the Nation and to make recommendations for executive and legislative action.

The Attorney General already has responsibility with respect to a major portion of Federal conciliation efforts in the civil rights field. Under Executive Order 11247, he coordinates the Government-wide enforcement of title VI of the Civil Rights Act of 1964, which relies heavily on the achievement of compliance through persuasion and negotiation.

In the light of these facts, the accompanying reorganization plan would transfer the functions of the Community Relations Service and of its Director to the Attorney General. In so providing, the plan, of course, follows the established pattern of Federal organization by vesting all the transferred powers in the head of the department. The Attorney General will provide for the organization of the Community Relations Service as a separate unit within the Department of Justice.

The functions transferred by the reorganization plan would be carried out with full regard for the provisions of section 1003 of title X of the Civil Rights Act of 1964 relating to (1) cooperation with appropriate State or local, public, or private agencies; (2) the confidentiality of information acquired with the understanding that it would be so held; and (3) the limitation on the performance of investigative or prosecutive functions by personnel of the Service.

This transfer will benefit both the Department of Justice and the Community Relations Service in the fulfillment of their existing functions.

The Attorney General will benefit in his role as the President's adviser by obtaining an opportunity to anticipate and meet problems before the need for legal action arises.

The Community Relations Service, brought into closer relationship with the Attorney General and the Civil Rights Division of the Department of Justice, will gain by becoming a primary resource in a coordinated effort in civil rights under the leadership of the Attorney General. The Community Relations Service will have direct access to the extensive information, experience, staff, and facilities within the Department and in other Federal agencies.

Finally, the responsibility for coordinating major Government activities under the Civil Rights Act aimed at voluntary and peaceful resolution of discriminatory practices will be centered in one department. Thus, the reorganization will permit the most efficient and effective utilization of resources in this field. Together the Service and the Department will have a larger capacity for accomplishment than they do apart.

Although the reorganizations provided for in the reorganization plan will not of themselves result in immediate savings, the improvement achieved in administration will permit a fuller and more effective utilization of manpower and will in the future allow the performance of the affected functions at lower costs than would otherwise be possible.

After investigation I have found and hereby declare that each organization included in Reorganization Plan No. 1 of 1966 is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 10, 1966.

REORGANIZATION PLAN NO. 2 OF 1966

Eff. May 10, 1966, 31 F.R. 6857, 80 Stat. 1608

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled February 28, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

WATER POLLUTION CONTROL

SECTION 1. TRANSFERS OF FUNCTIONS AND AGENCIES

(a) Except as otherwise provided in this section, all functions of the Secretary of Health, Education, and Welfare and of the Department of Health, Education, and Welfare under the Federal Water Pollution Control Act, as amended, hereinafter referred to as the Act (33 U.S.C. 466 et seq.) [now covered by section 1151 et seq. of Title 33], including all functions of other officers, or of employees or agencies, of that Department under the Act, are hereby transferred to the Secretary of the Interior.

(b) The Federal Water Pollution Control Administration is hereby transferred to the Department of the Interior.

(c)(1) The Water Pollution Control Advisory Board, together with its functions, is hereby transferred to the Department of the Interior.

(2) The functions of the Secretary of Health, Education, and Welfare (including those of his designee) under section 9 of the Act [33 U.S.C. § 1159] shall be deemed to be hereby transferred to the Secretary of the Interior.

(3) The Secretary of Health, Education, and Welfare shall be an additional member of the said Board as provided for by section 9 of the Act [33 U.S.C. § 1159] and as modified by this reorganization plan.

(d)(1) The Hearing Boards provided for in sections 10(c)(4) and 10(f) of the Act [33 U.S.C. § 1160(c)(4), (f)] including any Boards so provided for which may be in existence on the effective date of this reorganization plan, together with their respective functions, are hereby transferred to the Department of the Interior.

(2) The functions of the Secretary of Health, Education, and Welfare under the said sections 10(c)(4) and 10(f) [33 U.S.C. § 1160(c)(4), (f)] shall be deemed to be hereby transferred to the Secretary of the Interior.

(3) The Secretary of the Interior shall give the Secretary of Health, Education, and Welfare opportunity to select a member of each Hearing Board appointed pursuant to sections 10(c)(4) and 10(f) of the Act [33 U.S.C. § 1160(c)(4), (f)] as modified by this reorganization plan:

(e) There are excepted from the transfers effected by subsection (a) of this section (1) the functions of the Secretary of Health, Education, and Welfare and the Assistant Secretary of Health, Education, and Welfare under clause (2) of the second sentence of section 1(b) of the Act, and (2) so much of the functions of the Secretary of Health, Education, and Welfare under section 3(b)(2) of the Act [33 U.S.C. 1153(b)(2)] as related to public health aspects.

(f) The functions of the Surgeon General under section 2(k) of the Water Quality Act of 1965 (79 Stat. 905) [33 U.S.C. § 1152 note] are transferred to the Secretary of Health, Education, and Welfare. Within 90 days after this reorganization plan becomes effective, the Secretary of the Interior and the Secretary of Health, Education, and Welfare shall present to the President for his approval an interdepartmental agreement providing in detail for the implementation of the consultations provided for by said section 2(k). Such interdepartmental agreement may be modified from time to time by the two Secretaries with the approval of the President.

(g) The functions of the Secretary of Health, Education, and Welfare under sections 2(b), (c), and (g) of the Water Quality Act of 1965 [33 U.S.C. § 1152 note] are hereby transferred to the Secretary of the Interior: *Provided*, That the Secretary of the Interior may exercise the authority to provide further periods for the transfer to classified positions in the Federal Water Pollution Control Administration of commissioned officers of the Public Health Service under said section 2(b) only with the concurrence of the Secretary of Health, Education, and Welfare.

(h) The functions of the Secretary of Health, Education, and Welfare under the following provisions of law are hereby transferred to the Secretary of the Interior:

(1) Section 702(a) of the Housing and Urban Development Act of 1965 (79 Stat. 490) [42 U.S.C. § 3102(a)].

(2) Section 212 of the Appalachian Regional Development Act of 1965 (79 Stat. 16) [40 U.S.C. App.].

(3) Section 106 of the Public Works and Economic Development Act of 1965 (79 Stat. 554) [42 U.S.C. § 3136].

SEC. 2. ASSISTANT SECRETARY OF THE INTERIOR

There shall be in the Department of the Interior one additional Assistant Secretary of the Interior, who shall be appointed by the President, by and with the advice and consent of the Senate, who shall, except as the Secretary of the Interior may direct otherwise, assist the Secretary in the discharge of the functions transferred to him hereunder, who shall perform such other duties as the Secretary shall from time to time prescribe. [As amended Pub. L. 90-83, § 10(c), Sept. 11, 1967, 81 Stat. 224.]

SEC. 3. PERFORMANCE OF TRANSFERRED FUNCTIONS

The provisions of sections 2 and 5 of Reorganization Plan No. 3 of 1950 (64 Stat. 1262) shall be applicable to the functions transferred hereunder to the Secretary of the Interior to the same extent as they are applicable to the functions transferred to the Secretary thereunder.

SEC. 4. INCIDENTAL PROVISIONS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, employed, used, held, available, or to be made available in connection with the functions transferred to the Secretary of the Interior or the Department of the Interior by this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Department of the Interior at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(c) This reorganization plan shall not impair the transfer rights and benefits of commissioned officers of the Public Health Service provided by section 2 of the Water Quality Act of 1965.

SEC. 5. ABOLITION OF OFFICE

(a) There is hereby abolished that office of Assistant Secretary of Health, Education, and Welfare the incumbent of which is on date of the transmittal of this reorganization plan to the Congress the Assistant Secretary of Health, Education, and Welfare designated by the Secretary of Health, Education, and Welfare under the provisions of section 1(b) of the Act.

(b) The Secretary of Health, Education, and Welfare shall make such provisions as he shall deem to be necessary respecting the winding up of any outstanding affairs of the Assistant Secretary whose office is abolished by subsection (a) of this section.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 2 of 1966, prepared in accordance with the provisions of the Reorganization Act of 1949, as amended, and providing for reorganization of certain water pollution control functions.

Thirty-five years ago Justice Oliver Wendell Holmes said: "A river is more than an amenity, it is a treasure."

Only recently has the truth of this observation entered the public conscience. For we now recognize that the Nation's rivers, far from being treasured, have been carelessly neglected for too long.

Today we face a harsh reality. Our waters are burdened with blight. We know that every river system in America suffers from some degree of pollution. This menace is growing more serious with every passing day.

We have just begun to take the steps to clean and restore our waters.

The task is immense. The journey will be long.

If our new programs are to succeed we must combine our efforts—Federal, State, local, and private—in new and creative partnerships.

The attack against water pollution should be unified and coordinated.

It should be carried forward as an integral part of comprehensive planning for the development of river basins.

But, most importantly, the Government's management structure must be strengthened and reshaped to meet the challenges that lie ahead.

In my February 23 message on the quality of our environment I stated:

"* * * we must reorganize the Federal effort. In the past, the Federal anti-pollution effort has been organizationally separate from water conservation and use programs.

"One agency should assume leadership in our clean water effort.

"That agency should be the Department of the Interior."

The Department of the Interior, for many years, has been concerned with the comprehensive management and development of the Nation's water resources.

It plans, constructs, and operates multiple-purpose water and related land resources, projects.

It carries on research and development on the removal of minerals from water.

It administers the Water Resources Research Act.

The Secretary of the Interior also serves as Chairman of the Water Resources Council responsible for coordinating river basin planning. Under the Clean Rivers Restoration Act of 1966 and other legislation which I have recently proposed, the Secretary will become the focal point for Federal efforts in this area.

It is wise management to place under his control the related resources and authority now in the Department of Health, Education, and Welfare.

The reorganization plan maintains a proper and effective role for the Department of Health, Education, and Welfare with respect to the health aspects of pollution. At the same time it places in the Department of the Interior all of the necessary tools to move forward the drive to clean America's waters.

The reorganization plan herewith transmitted will transfer to the Secretary of the Interior the functions of the Department of Health, Education, and Welfare under the Federal Water Pollution Control Act except for responsibilities relating to public health for which the Department of Health, Education, and Welfare has special competence. That Department will retain responsibility under section 3(b) of the act for advising on public health questions involved in determinations by Federal agencies of the need for and value of the inclusion of storage for water quality control in Federal reservoirs. The Federal Water Pollution Control Administration would be transferred to the Department of the Interior.

The Secretary of the Interior in administering the act will also be required to consult with the Secretary of Health, Education, and Welfare on public health aspects relating to water pollution. This consultative responsibility is now vested in the Suregon General by section 2(k) of the Water Quality Act of 1965. The plan transfers that responsibility to the Secretary of Health, Education, and Welfare.

The Water Pollution Control Advisory Board and the hearing boards provided for in the act would be transferred to the Department of the Interior, together with their respective functions. The reorganization plan also makes the Secretary of Health, Education, and Welfare a member of the Advisory Board and gives him the opportunity to select a member of each hearing board.

The reorganization plan would in no way impair the rights and benefits of commissioned officers of the Public Health Service who may transfer to the Water Pollution Control Administration.

The reorganization to be accomplished by the plan transmitted herewith will enable the Federal Government to organize for action against pollution on a river basin basis under the unified leadership of the Secretary of the Interior.

After investigation, I have found and hereby declare that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended. I have also found and hereby declare that it is necessary to include in the accompanying reorganization plan, by reason of the reorganizations made thereby, provision for the membership of the Secretary of Health, Education, and Welfare on the Water Pollution Control Advisory Board and for the appointment and compensation of an additional Assistant Secretary of the Interior. The rate of compensation fixed for that officer is that which I have found to prevail in respect of comparable officers in the executive branch of the Government.

The reorganizations provided for in the reorganization plan transmitted herewith will produce significant long-range savings and economies by reason of the efficiencies in organization and in the elimination of duplication of effort it will bring about. It is, however, impracticable to specify or itemize at this time the reductions of expenditures which it is probable will be brought about by the taking effect of the reorganizations included in the reorganization plan.

I recommend that the Congress allow the accompanying plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 28, 1966.

REORGANIZATION PLAN NO. 3 OF 1966

Eff. June 25, 1966, 31 F.R. 8855, 80 Stat. 1610

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, April 25, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

PUBLIC HEALTH SERVICE

SECTION 1. TRANSFER OF FUNCTIONS

(a) Except as otherwise provided in subsection (b) of this section, there are hereby transferred to the Secretary of Health, Education, and Welfare (hereinafter referred to as the Secretary) all functions of the Public Health Service, of the Surgeon General of the Public Health Service, and of all other officers and employees of the Public Health Service, and all functions of all agencies of or in the Public Health Service.

(b) This section shall not apply to the functions vested by law in any advisory council, board, or committee of or in the Public Health Service which is established by law or is required by law to be established.

SEC. 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Secretary may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or agency of the Public Health Service or of the Department of Health, Education, and Welfare.

SEC. 3. ABOLITIONS

(a) The following agencies of the Public Health Service are hereby abolished:

(1) The Bureau of Medical Services, including the office of Chief of the Bureau of Medical Services.

(2) The Bureau of State Services, including the office of Chief of the Bureau of State Services.

(3) The agency designated as the National Institutes of Health (42 U.S.C. 203), including the office of Director of the National Institutes of Health (42 U.S.C. 206(b)) but excluding the several research Institutes in the agency designated as the National Institutes of Health.

(4) The agency designated as the Office of the Surgeon General (42 U.S.C. 203(1)), together with the office held by the Deputy Surgeon General (42 U.S.C. 206(a)).

(b) The Secretary shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

SEC. 4. INCIDENTAL TRANSFERS

As he may deem necessary in order to carry out the provisions of this reorganization plan, the Secretary may from time to time effect transfers within the Department of Health, Education, and Welfare of any of the records, property, personnel and unexpended balances (available or to be made available) of appropriations, allocations, and other funds of the Department which relate to functions affected by this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for reorganization of health functions of the Department of Health, Education, and Welfare.

I

Today we face new challenges and unparalleled opportunities in the field of health. Building on the progress of the past several years, we have truly begun to match the achievements our medicine to the needs of our people.

The task ahead is immense. As a nation, we will unceasingly pursue our research and learning, our training and building, our testing and treatment. But now our concern must also turn to the organization of our Federal health programs.

As citizens we are entitled to the very best health services our resources can provide.

As taxpayers, we demand the most efficient and economic health organizations that can be devised.

I ask Congress to approve a reorganization plan to bring new strength to the administration of Federal health programs.

I propose a series of changes in the organization of the Public Health Service that will bring to all Americans a structure modern in design, more efficient in operation and better prepared to meet the great and growing needs of the future. Through such improvements we can achieve the full promise of the landmark health legislation enacted by the 89th Congress.

I do not propose these changes lightly. They follow a period of careful deliberation. For many months the Secretary of Health, Education, and Welfare and the Surgeon General have consulted leading experts in the Nation—physicians, administrators, scientists, and public health specialists. They have confirmed my belief that modernization and reorganization of the Public Health Service are urgently required and long overdue.

II

The Public Health Service is an operating agency of the Department of Health, Education, and Welfare. It is the principal arm of the Federal Government in the field of health. Its programs are among those most vital to our well-being.

Since 1953 more than 50 new programs have been placed in the Public Health Service. Its budget over the past 12 years has increased tenfold—from $250 million to $2.4 billion.

Today the organization of the Public Health Service is clearly obsolete. The requirement that new and expanding programs be administered through an organizational structure established by law more than two decades ago stands as a major obstacle to the fulfillment of our Nation's health goals.

As presently constituted, the Public Health Service is composed of four major components:

National Institutes of Health.
Bureau of State Services.
Bureau of Medical Services.
Office of the Surgeon General.

Under present law, Public Health Service functions must be assigned only to these four components.

This structure was designed to provide separate administrative arrangements for health research, programs of State and local aid, health services, and executive staff resources. At a time when these functions could be neatly compartmentalized, the structure was adequate. But today the situation is different.

Under recent legislation many new programs provide for an integrated attack on specific disease problems or health hazards in the environment by combining health services, State and local aid, and research. Each new program of this type necessarily is assigned to one of the three operating components of the Public Health Service. Yet none of these components is intended to administer programs involving such a variety of approaches.

Our health problems are difficult enough without having them complicated by outmoded organizational arrangements.

But if we merely take the step of integrating the four agencies within the Public Health Service we will not go far enough. More is required.

III

The Department of Health, Education, and Welfare performs major health or health-related functions which are not carried out through the Public Health

Service, although they are closely related to its functions. Among these are:

Health insurance for the aged, administered through the Social Security Administration;

Medical assistance for the needy, administered through the Welfare Administration;

Regulation of the manufacture, labeling, and distribution of drugs, carried out through the Food and Drug Administration; and

Grants-in-aid to States for vocational rehabilitation of the handicapped, administered by the Vocational Rehabilitation Administration.

Expenditures for health and health-related programs of the Department administered outside the Public Health Service have increased from $44 million in 1953 to an estimated $5.4 billion in 1967.

As the head of the Department, the Secretary of Health, Education, and Welfare is responsible for the administration and coordination of all the Department's health functions. He has clear authority over the programs I have just mentioned.

But today he lacks this essential authority over the Public Health Service. The functions of that agency are vested in the Surgeon General and not in the Secretary.

This diffusion of responsibility is unsound and unwise.

To secure the highest possible level of health services for the American people the Secretary of Health, Education, and Welfare must be given the authority to establish— and modify as necessary—the organizational structure for Public Health Service programs.

He must also have the authority to coordinate health functions throughout the Department. The reorganization plan I propose will accomplish these purposes. It will provide the Secretary with the flexibility to create new and responsive organizational arrangements to keep pace with the changing and dynamic nature of our health programs.

My views in this respect follow a basic principle of good government set by the Hoover Commission in 1949 when it recommended that "the Department head should be given authority to determine the organization within his Department."

IV

In summary, the reorganization plan would:

Transfer to the Secretary of Health, Education, and Welfare the functions now vested in the Surgeon General of the Public Health Service and in its various subordinate units (this transfer will not affect certain statutory advisory bodies such as the National Advisory Cancer and Heart Councils);

Abolish the four principal statutory components of the Public Health Service, including the offices held by their heads (the Bureau of Medical Services, the Bureau of State Services, the National Institutes of Health exclusive of its several research institutes such as the National Cancer and Heart Institutes, and the Office of the Surgeon General); and

Authorize the Secretary to assign the functions transferred to him by the plan to officials and entities of the Public Health Service and to other agencies of the Department as he deems appropriate.

Thus, the Secretary would be—

Enabled to assure that all health functions of the Department are carried out as effectively and economically as possible;

Given authority commensurate with his responsibility; and

Made responsible in fact for matters for which he is now, in any case, held accountable by the President, the Congress, and the people.

V

I have found, after investigation, that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

Should the reorganizations in the accompanying reorganization plan take effect, they will make possible more effective and efficient administration of the affected health programs. It is, however, not practicable at this time to itemize the reductions in expenditures which may result.

I strongly recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, April 25, 1966.

REORGANIZATION PLAN NO. 4 OF 1966

Eff. Aug. 23, 1966, 31 F.R. 11137, 80 Stat. 1611

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, June 13, 1966, Pursuant to the Provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

NATIONAL ZOOLOGICAL PARK BUILDINGS AND BRIDGES

All those functions of the Board of Commissioners of the District of Columbia which were vested in the municipal architect of the District of Columbia by the provisions of the Act of August 24, 1912, c. 355, 37 Stat. 437 (20 U.S.C. 84; D.C. Code § 8-134), in respect of buildings of the National Zoological Park, and all functions of that Board which were vested in the engineer of bridges of the District of Columbia by those provisions in respect of bridges of the National Zoological Park, are hereby transferred to the Smithsonian Institution.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended, and providing for a reorganization relating to the National Zoological Park located in the District of Columbia.

Today, all responsibilities for the administration of the park are vested in the Smithsonian Institution with one exception—the function of preparing plans and specifications for the construction of buildings and bridges at the zoo. That statutory responsibility is now conducted by the Board of Commissioners of the District of Columbia.

Under the accompanying reorganization plan, the responsibility for the preparation of these plans and specifications would be transferred from the District of Columbia Board of Commissioners to the Smithsonian. The complete administration of the park would then be vested in one agency—the Smithsonian Institution. This will allow the more efficient and effective development and management of the park.

In 1912, the functions to be transferred were vested in the Municipal Architect of the District of Columbia and in the Engineers of the Bridges of the District of Columbia. In 1952, they were transferred to the Board of Commissioners.

When the 1912 act was passed, the District of Columbia shared the costs of capital improvements in the National Zoological Park. In 1961, it ceased sharing these costs, and the Federal Government assumed, complete responsibility for financing the improvements. Accordingly, the District government retains no capital improvement responsibilities for the National Zoological Park except those functions relating to construction plans and specifications for buildings and bridges, as specified in the 1912 statutes. Upon the transfer of these remaining functions to the Smithsonian Institution, the administration of the National Zoological Park will, at last, be fully centered in one agency. It is not practicable at this time, however, to itemize the resulting reduction in expenditures.

I have found, after investigation, that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, June 13, 1966.

REORGANIZATION PLAN NO. 5 OF 1966

Eff. Sept. 8, 1966, 31 F.R. 11857, 80 Stat. 1611

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, June 29, 1966, pursuant to the provisions of the Reorganization Act of 1949, 63 Stat. 203, as amended [see section 901 et seq. of this title].

NATIONAL CAPITAL REGIONAL PLANNING COUNCIL

SECTION 1. ABOLITION

The National Capital Regional Planning Council (66 Stat. 783), together with all of its functions, is hereby abolished.

SEC. 2. LIQUIDATION

The National Capital Planning Commission shall make such provisions as it shall deem necessary respecting the winding up of the outstanding affairs of the National Capital Regional Planning Council.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am transmitting Reorganization Plan No. 5 of 1966, prepared in accordance with the Reorganization Act of 1949, as amended.

The time has come to recognize the readiness of local governments in the Washington area to undertake a role which is properly and rightfully theirs. To that end, I am submitting a reorganization plan to abolish the National Capital Regional Planning Council.

Comprehensive regional planning is vital to the orderly development of our metropolitan areas. Nowhere is it more important than in the National Capital region.

To be most effective, regional planning must be a responsibility of the area's State and local governments acting together to solve mutual problems of growth and change. It should not be a Federal function, although the Federal Government should support and advance it.

The need for cooperative planning was recognized years ago in the National Capital region. The establishment of the National Capital Regional Planning Council in 1952 to prepare a comprehensive development plan was a major step in meeting that need.

However, the Council was designed for conditions which no longer exist. It was established by Federal law as a Federal agency financed by Federal funds because the various local jurisdictions then felt they were not in a position to provide the financing necessary for areawide comprehensive planning.

The situation that existed in 1952 has been changed by two major developments—

The founding of the Metropolitan Washington Council of Governments; and

The inauguration of a nationwide urban planning assistance program, commonly referred to as the "701 Program."

The Metropolitan Washington Council of Governments, established in 1957, is a voluntary association of elected officials of local governments in the area. It has a competent professional staff and has done constructive work on areawide development matters. It had a budget of nearly a quarter of a million dollars for fiscal year 1965, mostly derived from local government contributions, and has developed to the point where it can fully carry out the State and local aspects of regional planning.

The urban planning assistance program provides for Federal financing of two-thirds of the cost of metropolitan planning. The National Capital Regional Planning Council, as a Federal agency, is not eligible for assistance under this program. The Metropolitan Washington Council of Governments, however, became eligible for that assistance under the terms of the Housing and Urban Development Act of 1965. Accordingly, the elected local governments of the National Capital region have declared their intention of undertaking the responsibility for area-wide comprehensive planning through the Council of Governments.

The reorganization plan will not alter the basic responsibilities of the National Capital Planning Commission. That Commission will continue to represent the Federal interest in the planning and development of the region. Indeed, its work should increase as comprehensive regional planning by the Council of Governments is accelerated. In accord with the reorganization plan, the Commission will work closely with the Council of Governments in regional planning. The Commission will also deal directly with the suburban jurisdictions and assume the liaison functions now exercised by the National Capital Regional Planning Council.

The reorganization plan will improve existing organizational arrangements of and promote more effective and efficient planning for the National Capital region.

It will also result in long-range savings to the Federal Government. The regional planning effort of the Council of Governments is supported in part by local contributions. The same work done by the National Capital Regional Planning Council has been supported totally with Federal funds. The plan will eliminate this overlapping effort.

Annual savings of at least $25,000 should result from the reorganization plan.

The functions to be abolished by the reorganization plan are provided for in sections 2(e), 3, 4, 5(d), and 6(b) of the act approved June 6, 1924, entitled "An Act providing for a comprehensive development of the park and playground system of the National Capital" (43 Stat. 463), as amended (66 Stat. 783, 40 U.S.C. 71a(e), 71b, 71c, 71d(d), and 71e(b)).

I have found, after investigation, that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 2(a) of the Reorganization Act of 1949, as amended.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, June 29, 1966.

REORGANIZATION PLAN NO. 1 OF 1967

Eff. May 9, 1967, 32 F.R. 7049, 81 Stat. 947

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 27, 1967, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

CERTAIN FUNCTIONS RELATING TO SHIP MORTGAGES

SECTION 1. TRANSFER FUNCTIONS

The functions which are now vested in the Secretary of Commerce relating to the approval of the surrender of the documents of a vessel pursuant to subsections B(4) and O(a) of the Ship Mortgage Act, 1920, as amended (46 U.S.C. 911(4) and 961(a)), are hereby transferred to the Secretary of Transportation.

SEC. 2. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred by this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Department of Transportation at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am transmitting Reorganization Plan No. 1 of 1967.

This plan would transfer from the Secretary of Commerce to the Secretary of Transportation authority to approve the surrender of certain ship documents. These documents include certificates of ownership, declarations of citizenship, and related ship papers issued for commercial vessels covered by preferred mortgages or owned by the United States.

Under the act establishing the Department of Transportation, the Secretary of Transportation, acting through the Coast Guard, will have responsibility for recording bills of sale, transfers, and mortgages of ships; for issuing new marine documents; and for retaining custody of preferred mortgages on vessels.

The Secretary of Transportation will not, however, have the authority to approve the surrender of documents for vessels covered by preferred mortgages. That authority still resides with the Secretary of Commerce.

As a result, shipowners will have to deal with two separate departments of the Federal Government every time a ship's name is changed, its structure is modified, or it is sold or transferred.

In each of these and other cases, the shipowner must first seek the approval of the Secretary of Commerce to surrender the ship's documents and then request the Secretary of Transportation to issue new documents.

The reorganization plan is designed to eliminate this duplication of effort, and to save time and expense for shipowners.

This is not a major reorganization plan. But it is important. It is part of our larger effort to streamline the Government, to make its operations as efficient as possible, and to enable it to provide better service to the citizens and businessmen of this country.

This plan has been prepared in accordance with chapter 9 of title V of the United States Code. I have found, after investigation, that the reorganization is necessary to accomplish one or more of the purposes set forth in section 901(a) of that title.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 27, 1967.

REORGANIZATION PLAN NO. 2 OF 1967

Reorganization Plan No. 2 of 1967, which proposed to strengthen the operations of the Tariff Commission by transferring to its chairman certain routine executive and administrative functions, was submitted to the Congress on March 9, 1967, and was disapproved by the Senate on May 15, 1967.

REORGANIZATION PLAN NO. 3 OF 1967

Eff. Aug. 11 1967 (in part), 32 F.R. 11669, 81 Stat. 948

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, June 1, 1967, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.

GOVERNMENT OF THE DISTRICT OF COLUMBIA

PART I. GENERAL PROVISIONS

SECTION 101. *Definitions.* (a) As used in this reorganization plan, the term "the Corporation" means the body-corporate for municipal purposes created a government by the name of the "District of Columbia."

(b) References in this reorganization plan to any provision of the District of Columbia Code are references to the provisions of statutory law codified under that provision and include the said provision as amended, modified, or supplemented prior to the effective date of this reorganization plan (including modifications made by Reorganization Plan No. 5 of 1952 (66 Stat. 824)).

SEC. 102. *Reorganization.* The Corporation is hereby reorganized as provided in the following Parts of this reorganization plan.

PART II. DISTRICT OF COLUMBIA COUNCIL

SEC. 201. *Establishment of the Council.* (a) There is hereby established in the Corporation a Council which shall be known as the "District of Columbia Council" (hereinafter referred to as the Council).

(b) The Council shall be composed of a Chairman of the Council, a Vice Chairman of the Council, and seven other members, all of whom shall be appointed by the President of the United States, by and with the advice and consent of the Senate. At the time of his appointment each member of the Council shall be a citizen of the United States, shall have been an actual resident of the District of Columbia for three years next preceding his appointment, and shall during that period have claimed residence nowhere else. The Council shall be nonpartisan and no more than six of its members shall be adherents of any one political party. Appointments to the Council shall be made with a view toward achieving a Council membership which will be broadly representative of the District of Columbia community.

(c) One or more of the nine Council members hereinabove provided for may be appointed from among (1) retired civilian employees of the Government, (2) retired personnel of the armed services of the United States, and (3) retired personnel of the Corporation. Any person so appointed shall be eligible to receive the compensation provided for in section 204 hereof and appointment hereunder shall not affect his right to receive annunity, pension, or retired pay to which he is otherwise entitled.

(d) Three of the appointments first made under this section shall be for terms expiring February 1, 1968, three shall be for terms expiring February 1, 1969, and three shall be for terms expiring February 1, 1970; and thereafter appointments shall be made for terms of three years. Any appointment made to fill a vacancy shall be made only for the unexpired balance of the term. Any member of the Council may continue to serve as such member after the expiration of his term of office until his successor is appointed and qualifies. Any member of the Council may be removed by the President of the United States for neglect of duty or malfeasance in office or when the member has been found guilty of a felony or conduct involving moral turpitude.

(e) Each member of the Council before entering upon the discharge of his duties as such member shall take an oath or affirmation to support the Constitution of the United States and to faithfully discharge the duties imposed upon him as such member.

(f) Five members of the Council shall constitute a quorum for the transaction of business of the Council, except that four members shall constitute a quorum whenever two or more Council memberships are vacant.

SEC. 202. *Acting Chairman.* During the absence or disability of the Chairman of the Council, or whenever there be no Chairman, the Vice Chairman shall act as Chairman of the Council.

SEC. 203. *Secretary of the Council.* (a) There is hereby established the office of the Secretary of the Council. The Secretary shall be appointed by the Council from time to time.

(b) The Secretary shall perform such duties, and shall provide such services for the Council and its members, as the Council may prescribe. Personnel appointed to assist the Secretary in carrying out his responsibilities under this section shall be appointed by the Secretary subject to the approval of the Council.

SEC. 204. *Compensation.* The Chairman of the Council shall receive compensation at the rate of $10,000 per annum, the Vice Chairman shall receive compensation at the rate of $9,000 per annum, and each other member of the Council shall receive compensation at the rate of $7,500 per annum. The Secretary of the Council shall receive compensation determined in accordance with the classification laws as amended from time to time.

SEC. 205. *Performance of functions of the Council.* (a) The Council is hereby authorized to make from time to time such provisions as it deems appropriate to authorize the performance of any of its functions by the Commissioner of the District of Columbia (hereinafter provided for).

(b) The Council is hereby authorized to make from time to time, subject to the concurrence of the Commissioner of the District of Columbia, such provisions as it deems appropriate to authorize the performance of any of its functions by any officer, agency, or employee of the Corporation except the courts thereof.

(c) All functions provided for in regulations of the Council (including existing regulations continued in force without action by the Council) which are to be carried out by any officer, employee, or agency, who or which is in other respects under the jurisdiction of the Commissioner of the District of Columbia shall be carried out by such officer, employee, or agency under the direction and control of the Commissioner.

PART III. COMMISSIONER OF THE DISTRICT OF COLUMBIA

SEC. 301. *Establishment of office of Commissioner.* (a) There is hereby established in the Corporation an office with the title of "Commissioner of the District of Columbia." The officer who holds that office is hereinafter referred to as the Commissioner.

(b) The Commissioner shall be appointed by the President of the United States, by and with the advice and consent of the Senate. The Commissioner shall at the time of his appointment be a citizen of the United States. Before entering upon the discharge of his duties the Commissioner shall take an oath or affirmation to support the Constitution of the United States and faithfully discharge the duties imposed upon him as Commissioner. The Commissioner shall receive compensation at the rate now or hereafter prescribed by law for offices and positions of Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). Whenever both a Commissioner and an Assistant to the Commissioner appointed under section 302 hereof are in office at least one of them shall have been an actual resident of the District of Columbia for three years next preceeding his appointment and have during that period claimed residence nowhere else. Both the Commissioner and the Assistant to the Commissioner shall reside in the District of Columbia during the time each holds office.

(c) The first appointment of a Commissioner hereunder shall be for a term expiring on February 1, 1969, and thereafter each appointment shall be made for a term of four years. Any appointment made to fill a vacancy in the office shall be made only for the unexpired balance of the term. A Commissioner may continue to serve as such after the expiration of his term of office until his successor is appointed and qualifies. The Commissioner is subject to removal by the President of the United States.

(d) The President may from time to time (1) designate officials of the Corporation (including the Chairman, the Vice Chairman, and the other members of the Council provided for in Part II of this reorganization plan if the President so elects) to act as Commissioner during the absence or disability of the Commissioner or in the event of a vacancy in the office of Commissioner, and (2) prescribe the order of succession in which the officials so designated shall so act.

SEC. 302. *Assistant to the Commissioner.* There is hereby established in the Corporation a new office which shall have the title "Assistant to the Commissioner of the District of Columbia." Such assistant (1) shall be appointed by the President of the United States, by and with the advice and consent of the Senate, (2) shall receive compensation at the rate now or hereafter prescribed by law for offices and positions of Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316), and (3) shall assist the Commissioner as the Commissioner may direct in connection with the carrying out of the functions of the Commissioner.

SEC. 303. *Establishment of other new offices.* There are hereby established in the Corporation so many agencies and offices, with such names or titles, as the Commissioner shall from time to time determine. The said offices shall be filled by appointment by, or under the authority of, the Commissioner. Each officer so appointed shall perform the functions delegated or otherwise assigned to him in pursuance of this reorganization plan and shall receive compensation to be fixed in accordance with the classification laws as amended from time to time.

SEC. 304. *Transfer of personnel, property, records, and funds.* With respect to personnel, property, records, and unexpended balances of appropriations, allocations and other funds, available or to be made available, relating to functions transferred by the provisions of this reorganization plan, the Commissioner may from time to time effect such transfers between the agencies of the Corporation (including transfers between the Commissioner and any other agency of the corporation) as he may deem necessary in order to carry out the provisions of this reorganization plan.

SEC. 305. *Performance of functions of Commissioner.* The Commissioner is hereby authorized to make from time to time such provisions as he deems appropriate to authorize performance of his functions by any other officer, or by any employee or agency, of the Corporation except the courts thereof.

PART IV. TRANSFERS OF FUNCTIONS

SEC. 401. *Transfer of functions to Commissioner.* Except as otherwise provided in this reorganization plan, all functions of the Board of Commissioners of the District of Columbia, including all functions of the President of that Board and all functions of each other member of that Board and including also the executive power vested therein (D.C. Code, sec. 1-218), are hereby transferred to the Commissioner of the District of Columbia.

SEC. 402. *Transfer of functions to Council.* The following regulatory and other functions now vested in the Board of Commissioners of the District of Columbia are hereby transferred to the Council (subject to the provisions of section 406 of this reorganization plan):

1. GENERAL PROVISIONS

(1) Making and modifying police regulations under D.C. Code, sec. 1-224 (including the prescribing of penalties under paragraph "Eleventh" thereof).

(2) Prescribing penalties under D.C. Code, sec. 1-224a.

(3) Making and modifying regulations to regulate the keeping and leashing of dogs, and to regulate or prohibit the running at large of dogs, including penalties for violations of such regulations, under D.C. Code, sec. 1-224b.

(4) Making regulations under D.C. Code, secs. 1-226 and 1-227.

(5) Making building regulations under D.C. Code, sec. 1-228.

(6) Making and publishing such orders as may be necessary to regulate the construction, repair and operation of elevators and prescribing such means of security as may be found necessary to protect life and limb under D.C. Code, sec. 1-229.

(7) Issuing proclamations related to the control of rabies under D.C. Code, sec. 1-230.

(8) Making regulations relating to outdoor signs and other forms of exterior advertising under D.C. Code, sec. 1-231.

(9) With respect to the functions transferred to the Council by the provisions of this reorganization plan, (i) making investigations or examinations of municipal matters, and (ii) administering oaths to witnesses, under D.C. Code, sec. 1-237.

(10) Reporting annually to the Congress concerning the functions transferred to the Council by the provisions of this reorganization plan under D.C. Code, sec. 1-238.

(11) Making regulations to provide for the waiver of payment of fees (by persons in the military service of the United States) under D.C. Code, sec. 1-244(a).

(12) Making and adopting regulations relating to the furnishing and keeping in force a bond by persons, firms, or corporations engaged in the business of plumbing or gas fitting, or of installing, maintaining, or repairing heating, ventilating, air-conditioning, or mechanical refrigerating apparatus, equipment, appliances, systems, or parts thereof, or of installing, maintaining, or repairing apparatus, equipment, fixtures, appliances, or wiring, using or conducting electric current under D.C. Code, sec. 1-244(b).

(13) Prescribing regulations for the examination of the qualifications and fitness of applicants for licenses to engage in the business referred to in the immediately preceding paragraph hereof under D.C. Code, sec. 1-244(b).

(14) Naming highways and naming and renaming circles, bridges, buildings, or other public places or properties under D.C. Code, sec. 1-244(f).

(15) Prescribing penalties under D.C. Code, sec. 1-244(h).

(16) Fixing and changing periods for which licenses, certificates, or registrations may be issued under D.C. Code, sec. 1-257.

(17) Prescribing regulations relating to holidays for District of Columbia employees under D.C. Code, sec. 1-260.

(18) The reception and entertainment of officials of foreign, State, local, or Federal governments and other dignitaries and eminent persons visiting in or returning to the District of Columbia under D.C. Code, sec. 1-262.

(19) Prescribing penalties under D.C. Code, sec. 1-264.

(20) Prescribing rules and regulations relating to notaries public under D.C. Code, sec. 1-501.

(21) Making and publishing general orders regulating the platting and subdividing of lands and grounds under D.C. Code, sec. 1-613.

(22) Prescribing a schedule of fees for surveyor's services under D.C. Code, sec. 1-629.

(23) Exempting certain boilers from provision prohibiting using steam boilers without first obtaining certificate of inspection under D.C. Code, sec. 1-705.

(24) Making regulations to carry out the provisions of the Act of June 25, 1936 under section 14 of that Act (D.C. Code, sec. 1-715).

(25) Making rules and regulations respecting the production, use, and control of electricity, and prescribing fees, under D.C. Code, sec. 1-719.

(26) Making and modifying regulations governing plumbing, house drainage, and sewers, and making and modifying regulations governing the examinations, registration, and licensing of plumbers and the practice of the business of plumbing and gas fitting, under D.C. Code, sec. 1-725.

(27) Establishing fees for permits to connect buildings, premises, or establishments with sewer, water, or gas mains, or other underground structures, and establishing fees for permits granted to make excavations, under D.C. Code, sec. 1-726.

(28) Consulting concerning the formation of one or more citizen advisory councils under D.C. Code, sec. 1-1004(e) (40 U.S.C. 71c(e)).

(29) Defining and redefining the central area of the District of Columbia under D.C. Code, sec. 1-1005(c) (40 U.S.C. 71d(c)).

(30) Approving a major thoroughfare plan or parts thereof or revisions thereof, and proposing revision of the major thoroughfare plan or parts thereof, under D.C. Code, sec. 1-1006(a) (40 U.S.C. 71e(a)).

(31) Consulting with National Capital Planning Commission prior to final adoption of the thoroughfare plan under D.C. Code, sec. 1-1006(b) (40 U.S.C. 71e(b)).

(32) Submitting a copy of the District's advance program of capital improvements to the National Capital Planning Commission under D.C. Code, sec. 1-1007 (40 U.S.C. 71f).

(33) With respect to each inaugural period: (i) making regulations necessary to secure the preservation of public order and protection of life, health, and property, (ii) making regulations respecting the standing, movement, and operation of vehicles, (iii) fixing conditions with respect to licenses to peddlers and vendors, and (iv) fixing fees for the privilege of selling goods, wares, and merchandise, under D.C. Code, sec. 1-1202 (36 U.S.C. 722).

2. REGULATION OF PROFESSIONS, OCCUPATIONS, ETC.

(34) Making and altering rules for the conduct of business of agency administering, and for the execution and enforcement of, the Healing Arts Practice Act of 1928, under D.C. Code, sec. 2-103, and adopting and altering a common seal thereunder.

(35) Establishing minimum standards of preprofessional and professional education in the healing art and establishing minimum standards for hospitals for interne training under D.C. Code, sec. 2-103a(a).

(36) Adopting and promulgating rules and regulations prescribing (i) the terms and conditions under which a tissue bank license may be issued and renewed, (ii) the fees to be paid by the issuance and renewal of such licenses, (iii) the duration of such licenses, (iv) the grounds for the suspension and revocation of such licenses, (v) the operation of tissue banks, (vi) the conditions under which tissue may be processed, preserved, stored, and transported, and (vii) the making, keeping, and disposition of records by tissue banks and by other persons under D.C. Code, sec. 2-253(b).

(37) Making and adopting rules and regulations to effect the purposes of the Act of July 2, 1940, relating to the licensing of dentists and the practice of dentistry (including the making of rules regulating professional announcements and the number of offices of a licensed dentist and including also the prescribing of rules and regulations to permit the use in hospitals of dental internes) under D.C. Code, sec. 2-302.

(38) Adopting and amending by-laws carrying into effect the Act of February 9, 1907, relating to the registration of graduate nurses, under D.C. Code, secs. 2-403 and 2-406.

(39) Fixing, under D.C. Code, sec. 2-408, the fees referred to in clause (c) thereof.

(40) Adopting and prescribing rules and regulations to carry into effect the Act of September 6, 1960, and prescribing minimum curricula and standards for schools and programs, under D.C. Code, sec. 2-427(a).

(41) Obtaining or requiring the furnishing of information under oath or affirmation or otherwise necessary to assist in prescribing any regulation under the Act of September 6, 1960 under D.C. Code, sec. 2-427(b).

(42) With respect to the functions transferred by the paragraph immediately preceding this paragraph, administering oaths and affirmations, requiring by subpoena or otherwise the attendance and testimony of witnesses and the production of documents, and making application to the Court for an order requiring obedience thereto under D.C. Code, sec. 2-427(b).

(43) Determining the qualifications, prescribing the terms of office, and fixing the compensation of members of the physical therapists examining board under D.C. Code, sec. 2-455.

(44) Adopting and prescribing rules and regulations to carry into effect the Act of September 22, 1961, under D.C. Code, sec. 2-456(a).

(45) Obtaining or requiring the furnishing of information under oath or affirmation or otherwise necessary to assist in prescribing any regulation under the Act of September 22, 1961 under D.C. Code, sec. 2-456(b).

(46) With respect to the functions transferred by the paragraph immediately preceding this paragraph, administering oaths and affirmations, requiring by subpoena or otherwise the attendance and testimony of witnesses and the production of documents, and making application to the Court for an order requiring obedience thereto, under D.C. Code, sec. 2-456(b).

(47) Changing the periods for which registrations as physical therapists or renewals thereof may be issued under D.C. Code, sec. 2-461(a).

(48) Altering, amending, or otherwise changing educational standards (relating to optometrists) under D.C. Code, sec. 2-512.

(49) Making and altering rules for the conduct of business of agency administering, and for the execution and enforcement of, the Act of May 7, 1906, under D.C. Code, sec. 2-608.

(50) Adopting rules and regulations respecting the eligibility of candidates for admission to the practice of podiatry and the scope of examinations, under D.C. Code, sec. 2-702, and adopting a seal thereunder.

(51) Making, altering, and amending rules and regulations to carry into effect the provisions of the Act of February 1, 1907, relating to veterinarians, and requiring the giving of bond and prescribing the form and penalty thereof, under D.C. Code, sec. 2-802.

(52) Determining, authorizing, and directing the subjects to be included in examinations for veterinarians under D.C. Code, sec. 2-803.

(53) Making reciprocal arrangements with authorities of the several states and territories of the United States concerning the licensing of veterinarians under D.C. Code, sec. 2-804.

(54) Making rules for the examination and registration of applicants for (architects') certificates under D.C. Code, sec. 2-1001.

(55) Fixing fees, relating to architects and applicants under D.C. Code, sec. 2-1023.

(56) With respect to the functions transferred by paragraphs (54) and (55), above, requiring the attendance of persons and the production of books and papers, requiring persons to testify, issuing subpoenas, and referring matters to a judge, under D.C. Code, sec. 2-1029.

(57) Adopting rules and sanitary regulations to carry out the provisions of the Act of June 7, 1938 (relating to barbers) under D.C. Code, sec. 2-1103.

(58) Making and issuing regulations (relating to the posting of prices in barber shops and violations of such regulations) under D.C. Code, sec. 2-1114a.

(59) Making and amending rules and regulations to carry out the purposes of the Act of December 20, 1944 (relating to boxing contests and exhibitions), under D.C. Code, sec. 2-1212.

(60) Making rules and regulations to carry out the provisions of the Act of June 7, 1938 (relating to cosmetologists) under D.C. Code, sec. 2-1303.

(61) Fixing fees for licenses (relating to plumbers) under D.C. Code, sec. 2-1405.

(62) Providing rules and regulations (relating to examinations for steam and other operating engineers), and prescribing tests to which engines and steam boilers shall be subjected, under D.C. Code, sec. 2-1502.

(63) All authority and responsibilities of the Board of Commissioners of the District of Columbia under D.C. Code, secs. 2-1724, 2-1727, and 2-1728 (relating to the District of Columbia Stadium).

(64) Regulating the certification of engineers-in-training, and prescribing examinations for the purpose of testing the applicant's knowledge, under D.C. Code, sec. 2-1808(c).

(65) Prescribing a certificate for issuance to applicants who meet requirements for certification as engineers-in-training under D.C. Code, sec. 2-1808(j).

(66) Adopting an official seal under D.C. Code, sec. 2- 1808(*l*).

(67) Adopting, amending, rescinding, and promulgating administrative rules and regulations to carry into effect the Act of September 19, 1950, under D.C. Code, sec. 2-1808(n).

(68) With respect to other functions transferred to the Council by the provisions of this reorganization plan, requiring the attendance of witnesses and the production of books and papers, requiring witnesses to testify, issuing subpenas, and referring matters to a judge under D.C. Code, sec. 2-1808(o).

(69) Fixing the form and amount of bond required to be furnished under D.C. Code, sec. 2-1813.

(70) Prescribing additional information to be contained in applications for pawnbrokers' licenses under D.C. Code, sec. 2-2003(b)(4).

(71) Making rules and regulations for the enforcement of the Act of August 6, 1965, under D.C. Code, sec. 2-2007(a)

(72) Determining or fixing a maximum rate of interest for pawnbroker loans and redetermining and refixing any such maximum rate under D.C. Code, sec. 2-2009(a).

(73) Making rules and regulations to carry out the Act of August 6, 1956 (relating to pawnbrokers) under D.C. Code, sec. 2-2017.

(74) Prescribing by regulation the form of and the information to be contained in solicitor information cards, and prescribing the manner of reproduction and authentication of such cards, under D.C. Code, sec. 2-2102(a)(7).

(75) Prescribing by regulation the terms and conditions for exempting solicitations from certain provisions of the Act of July 10, 1957 under D.C. Code, sec. 2-2103(d).

(76) Prescribing the form or forms of application for certificate of refrigeration, and requiring by regulation the information to be contained in each such application, under D.C. Code, sec. 2-2104(a).

(77) Promulgating regulations to carry out the Act of July 10, 1957 (relating to charitable solicitations) under D.C. Code, sec. 2-2110.

(78) Requiring the furnishing of bond as a condition to the issuance of license to engage in the home improvement business under D.C. Code, sec. 2-2301.

(79) Establishing classes and subclasses of persons licensed to engage in the home improvement business, and specifying the amount and conditions of the bond or other security to be deposited by each member of any such class or subclass, under D.C. Code, sec. 2-2302(a).

(80) By regulation, requiring applicants for licenses or licensees (i) to furnish and keep in force a bond or bonds or other security, and (ii) to procure and keep in force public liability insurance or property damage insurance, or both, under D.C. Code, secs. 2-2302(a) (1) and (2).

3. PUBLIC WELFARE

(81) Making rules and regulations relating to the admission of persons to institutions under D.C. Code, sec. 3-108.

(82) Establishing rules for receiving and temporarily caring for children under D.C. Code, sec. 3-116.

(83) Establishing rules and regulations to carry out the provisions of the Act of October 15, 1962 (relating to public assistance) under D.C. Code, sec. 3-202(b)(2).

(84) Approving regulations in accordance with which shall be determined the amount of public assistance which any person shall receive under D.C. Code, sec. 3-204(a).

(85) Prescribing the manner and form in which application for public assistance shall be made, under D.C. Code, sec. 3-205.

(86) Prescribing regulations governing the custody, use, and preservation of records, papers, files and communications relating to public assistance under D.C. Code, sec. 3-211(a).

(87) Approving rules and regulations relating to funeral expenses under D.C. Code, sec. 3-213.

(88) Prescribing rules and regulations in accordance with which hearings shall be conducted under D.C. Code, sec. 3-214.

4. POLICE AND FIRE

(89) Subdividing the Metropolitan Police District into police districts and precincts under D.C. Code, sec. 4-102.

(90) Determining and fixing limits of age for appointments to the police department under D.C. Code, sec. 4-107.

(91) Prescribing general regulations regarding special policemen under D.C. Code, sec. 4-115.

(92) Making rules and regulations under D.C. Code, sec. 4-117.

(93) Making and modifying rules and regulations for the proper government, conduct, discipline, and good name of the Metropolitan Police force, and fixing penalties, under D.C. Code, sec. 4-121.

(94) Making and amending rules of procedures before trial boards under D.C. Code, sec. 4-122.

(95) Changing, altering, amending, or abolishing rules and regulations of the Metropolitan Police force under the last proviso of D.C. Code, sec. 4-122.

(96) Providing rules for uniform clothing of the police force under D.C. Code, sec. 4-130.

(97) Prescribing the area constituting the "Washington, District of Columbia, metropolitan district" under D.C. Code, sec. 4-132a(b).

(98) Causing the Metropolitan Police force to keep records under D.C. Code, sec. 4-134(5).

(99) Determining traffic violations and other petty offenses with respect to which records are not required to be kept under D.C. Code, sec. 4-134a(a).

(100) Making rules and regulations regarding the written return of arrests under D.C. Code, sec. 4-142.

(101) Making rules and regulations in reference to the detention of witnesses under D.C. Code, sec. 4-144.

(102) Providing by regulation for disposition of property under the proviso of D.C. Code, sec. 4-156(e).

(103) Determining by regulation the disposition of property under D.C. Code, sec. 4-159(c).

(104) Determining, by regulation, disposition of property under D.C. Code, sec. 4-160(a).

(105) By regulation requiring that bonds be furnished and kept in force by persons licensed as private detectives under D.C. Code, sec. 4-171a.

(106) Fixing amounts of bonds obtained to secure against loss resulting from any act of dishonesty or other act by any officer of the Metropolitan Police force under D.C. Code, sec. 4-186.

(107) Making, altering, or amending rules and regulations relating to officers and members of the fire department, and changing the rules and regulations of the fire department promulgated before June 20, 1906, under D.C. Code, sec. 4-402.

(108) Determining and fixing limits of age for original appointments to the fire department under D.C. Code, sec. 4-403.

(109) Prescribing rules and regulations for installing in suburbs extra apparatus and appliances belonging to the fire department under D.C. Code, sec. 4-411.

(110) Entering into and renewing reciprocal agreements under D.C. Code, sec. 4-414(a).

(111) Promulgating rules and regulations regarding the selection and reporting of the names of privates and sergeants possessed of outstanding efficiency under D.C. Code, sec. 4-802.

(112) Promulgating regulations regarding additional compensation for working on holidays under D.C. Code, sec. 4-807.

(113) Designating holidays with respect to officers and members of the Metropolitan Police force and the Fire Department under D.C. Code, sec. 4-808.

(114) Promulgating regulations to carry out the intent and purposes of the Act of August 1, 1958, under D.C. Code, sec. 4-835.

(115) [Pub. L. 90-623, § 7(b), Oct. 22, 1968, 82 Stat. 1315, provided that paragraph was to have no further effect. Paragraph covered the promulgation of regulations (regarding determination whether injury or disease resulted from the performance of duty) under D.C. Code, sec. 4-909(b) (5 U.S.C. 6324(b)).]

5. BUILDING RESTRICTIONS AND REGULATIONS

(116) Making regulations for the care and preservation of parkings (established under the Act of June 21, 1906) under D.C. Code, sec. 5-205.

(117) Determining numbers and material, type, and construction of fire escapes under D.C. Code, sec. 5-301.

(118) Adopting regulations to accomplish the purposes and carry into effect the provisions of the Act of March 19, 1906 (relating to fire escapes and safety) under D.C. Code, sec. 5-304.

(119) Promulgating regulations requiring the provision, installation, and maintenance of means of egress, guide signs, guide lights, exit lights, hall and stairway lights, standpipes, fire extinguishers, alarm gongs, striking stations, and other appliances under D.C. Code, sec. 5-317.

(120) Regulating the maximum height of buildings on blocks immediately adjacent to public buildings or to the side of any public building for which plans have been prepared and money appropriated at the time of the application for the permit to construct the building under D.C. Code, sec. 5-405.

(121) Preparing (in consultation with the National Capital Planning Commission) plats defining the areas within which applications for building permits shall be submitted to the Commission of Fine Arts under D.C. Code, sec. 5-411.

(122) Approving boundaries of project areas and redevelopment plans and modifications of redevelopment plans under D.C. Code, secs. 5-705 and 5-711.

(123) Approving the entering by the District of Columbia Redevelopment Land Agency into contracts and agreements, relating to financial assistance, under D.C. Code, sec. 5-717a(a).

(124) Approving the acceptance by the District of Columbia Redevelopment Land Agency of advances of funds for surveys and plans, and approving transfers of funds by that Agency to the National Capital Planning Commission, under D.C. Code, sec. 5-717a(b).

(125) Entering into agreements with the District of Columbia Redevelopment Land Agency respecting certain cash payments from funds of the District of Columbia under D.C. Code, sec. 5-717a(d).

(126) Approving releases, modifications, and departures from features and details of approved redevelopment plans under D.C. Code, sec. 5-718(a).

(127) Transferring all right, title, and interest in and to part or all of certain property to the District of Columbia Redevelopment Land Agency under D.C. Code, sec. 5-720.

(128) Determining whether such property is necessary to the development of the southwest section in accordance with an approved urban renewal plan, determining how much of the property is necessary to carry out such urban renewal plan, and transferring and donating to the Agency all right, title, and interest of the United States in and to the property under D.C. Code, sec. 5-721.

(129) Transferring to the District of Columbia Redevelopment Land Agency jurisdiction regarding transferred property under D.C. Code, sec. 5-722.

(130) Prescribing regulations for making relocation payments to individuals, families, business concerns, and non-profit organizations for their moving expenses and actual direct losses caused by their displacement from real property acquired for public works projects under D.C. Code, sec. 5-729.

(131) Making regulations to carry out the purposes of the Act of October 6, 1964 under D.C. Code, sec. 5-732.

(132) Adopting regulations to bring horizontal property regimes into compliance with the laws and regulations in effect in the District of Columbia under D.C. Code, sec. 5-928.

6. HEALTH AND SAFETY

(133) Altering, amending, or repealing ordinances of the former Board of Health which were legalized by the Act of April 24, 1880 under D.C. Code, sec. 6-114.

(134) Promulgating rules and regulations to prevent and control the spread of communicable diseases under D.C. Code, sec. 6-118.

(135) By regulation, denominating the diseases within the meaning of "communicable diseases" under D.C. Code, sec. 6-119.

(136) Prescribing penalties for violation of communicable disease regulations under D.C. Code, sec. 6-119h.

(137) Making rules and regulations governing the certification of the given name of a child under D.C. Code, sec. 6-301(a).

(138) Adopting rules and regulations governing the filing of reports of births and the issuance of delayed birth certificates under D.C. Code, sec. 6-301(b).

(139) Making regulations for the collection and disposition of garbage and annexing penalties to such regulations under D.C. Code, sec. 6-501.

(140) Making regulations to carry out the purposes of the Act of March 4, 1929 (relating to combustible refuse) under D.C. Code, sec. 6-507.

(141) Specifying fees for disposing of combustible material in incinerators built by the District of Columbia, and designating routes for hauling or transporting the material, under D.C. Code, sec. 6-511.

(142) Prescribing by regulation the manner of describing, on mattress tags, material used in mattresses under D.C. Code, sec. 6-603.

(143) Making regulations to regulate the design, construction, and maintenance of disposal systems, and the handling, storage, treatment, and disposal of wastes, under D.C. Code, sec. 6-703.

(144) Making and promulgating classifications and regulations for the installation and operation of combustion and other devices susceptible for use in such manner as to violate purposes of smoke prevention law, amending or rescinding such regulations, and promulgating amended or additional regulations under D.C. Code, sec. 6-802.

(145) Making rules and regulations to carry out authority to take measures for the protection of persons and property under D.C. Code, sec. 6-1009 (preamble).

(146) Making regulations to govern the establishment, maintenance, and operation of civil defense units and organizations and the discipline of the members thereof under D.C. Code, sec. 6-1009(a).

(147) Prescribing penalties for violations of regulations promulgated pursuant to the Act of December 26, 1941 under D.C. Code, sec. 6-1010.

(148) Promulgating regulations requiring that cancer, sarcoma, lymphoma (including Hodgkin's disease), leukemia, and all other malignant growths be reported under D.C. Code, sec. 6-1301.

(149) Prescribing a penalty or fine for the violation of any regulation promulgated under the Act of July 27, 1951 under D.C. Code, sec. 6-1304.

7. HIGHWAYS, STREETS, AND BRIDGES

(150) Making regulations for keeping in repair streets, avenues, alleys, sewers, and other works under D.C. Code, sec. 7-101.

(151) Changing the name of any street, road, avenue, or other highway when there is duplication of names under D.C. Code, sec. 7-106.

(152) Naming or renaming streets, avenues, alleys, highways, and reservations under D.C. Code, sec. 7-107.

(153) Determining the extent to which plans for the extension of a permanent system of highways may be out of conformity with the street plan of the city of Washington under D.C. Code, sec. 7-108.

(154) Naming streets, avenues, alleys, and reservations under D.C. Code, secs. 7-112 and 7-116.

(155) Abandoning or readjusting streets or proposed streets (in order to provide grounds for educational, religious, or similar institutions) under D.C. Code, sec. 7-113.

(156) Determining the extent to which plans for the extension of highways may be out of conformity with street plan, and naming streets, avenues, alleys, and reservations, under D.C. Code, sec. 7-116.

(157) Accepting the dedication of streets, prescribing regulations in regard to the height of parking and the projection of buildings beyond the building line, and making determinations respecting the District of Columbia having right-of-way through parking, under D.C. Code, sec. 7-117.

(158) Determining the extent to which new highway plans may be out of conformity with the street plan under D.C. Code, sec. 7-122.

(159) Opening, extending, or widening streets, avenues, roads, or highways under D.C. Code, sec. 7-201.

(160) Closing alleys or parts of alleys under D.C. Code, sec. 7-302.

(161) Accepting the dedication of alleys, and closing existing alleys, under D.C. Code, sec. 7-303.

(162) Closing alleys or parts of alleys under D.C. Code, sec. 7-304.

(163) Closing alleys under D.C. Code, sec. 7-305.

(164) Making orders declaring existing alleyways closed and opening new substitute alleyways, under D.C. Code, sec. 7-306.

(165) Making an order canceling existing subdivision of any square and obliterating alleys therein under D.C. Code, sec. 7-308.

(166) Closing alleys or parts of alleys under D.C. Code, sec. 7-309.

(167) Setting land aside for alley purposes under D.C. Code, sec. 7-310.

(168) Closing any street, road, highway, or alley, or any part of any thereof (including the making of the required finding thereon) under D.C. Code, sec. 7-401.

(169) Making regulations for the safety of the public using bridges and for the lighting and the police control of bridges under D.C. Code, sec. 7-501.

(170) Ordering the removal of abandoned street railway tracks, settling claims against D.C. Transit System, Inc., for the paving of abandoning track areas, and determining terms and conditions as to time of payment or payments under D.C. Code, sec. 7-604a.

(171) Regulating the location and depth of gas mains under D.C. Code, sec. 7-706.

(172) Jurisdiction and control over MacArthur Boulevard (formerly Conduit Road) and levying assessments for public improvements, under D.C. Code, sec. 7-1201 (40 U.S.C. 53a).

(173) Denominating portions of streets as business streets, and prescribing general regulations, under D.C. Code, sec. 7-1205.

(174) Granting a Railroad Company permission to lay, maintain, and use sidetracks and sidings under D.C. Code, sec. 7-1210.

(175) Approving the point or points at which additional stations or depots may be constructed, established, and maintained, and approving plans for connecting tracks and elevated structures, under D.C. Code, sec. 7-1212.

(176) Approving the construction of railroad tracks and appurtenant turnouts, branch tracks, and sidings under D.C. Code, sec. 7-1218; and approving plans for the construction of branch sidings under the Act of September 26, 1961 (D.C. Code, note at sec. 7-1218).

(177) Approving the location and construction of railroad tracks, turnouts, branch tracks, spurs, and sidings under D.C. Code, sec. 7-1219.

(178) Approving wage rates fixed and adjusted from time to time by a wage board, under D.C. Code, sec. 7-1236.

8. PARKS

(179) Setting aside space in the streets and avenues for park purposes, denominating portions of streets as business streets, and prescribing general regulations under D.C. Code, sec. 8-108.

(180) Jurisdiction and control of the street parking in streets and avenues under D.C. Code, sec. 8-110.

(181) Transferring jurisdiction over properties or parts thereof to Federal authorities, and accepting

from Federal authorities jurisdiction over properties or parts thereof, under D.C. Code, sec. 8-115 (40 U.S.C. 122).

(182) Making rules and regulations for the management of a public convenience station, and fixing charges for the use of such station under D.C. Code, sec. 8-138.

(183) Making rules and regulations for the management of public convenience stations, and fixing charges for the use of the conveniences, under D.C. Code, sec. 8-140.

(184) Accepting land and dedications of land under D.C. Code, sec. 8-162.

(185) Making regulations relating to a beach and dressing houses under D.C. Code, sec. 8-168.

9. PUBLIC BUILDINGS AND GROUNDS

(186) Making rules and regulations for the Government and control of wharves, piers, bulkheads, structures, adjacent waters, basins, slips, docks, and land under water under D.C. Code, sec. 9-101.

(187) Making rules and regulations for the Government and proper care of property and annexing penalties to said rules and regulations, and making rules and regulations in regard to building and repairing wharves, the rental thereof, and the rate of wharfage, under D.C. Code, sec. 9-102.

(188) Fixing penalties of bonds of employees under D.C. Code, sec. 9-134(a).

(189) Prescribing by regulation the uniform and identification badge to be worn by individuals under D.C. Code, sec. 9-134(b).

(190) Making and amending regulations for the protection of life and property in or on institutional buildings or grounds under D.C. Code, sec. 9-135.

(191) Acquiring certain squares and reservations, including buildings and other structures thereon, as a site for a municipal center, and closing and vacating portions of streets and alleys, under D.C. Code, sec. 9-201.

(192) Making the finding that real estate is no longer required for a public purpose, under D.C. Code, sec. 9-301 (40 U.S.C. 72c).

(193) Exchanging District-owned land or part thereof under D.C. Code, sec. 9-401.

10. WEIGHTS, MEASURES, AND MARKETS

(194) Prescribing the manner of approving and sealing, stamping, or marking devices or appliances under D.C. Code, sec. 10-103.

(195) Establishing and allowing variation, tolerances, and exemptions, as to small packages, under D.C. Code, sec. 10-117.

(196) Fixing standard loads by which split wood may be sold under D.C. Code, sec. 10-118.

(197) Establishing tolerances and specifications for scales, weights, measures, weighing or measuring instruments or devices, and containers under D.C. Code, sec. 10-127.

(198) Prescribing regulations governing the granting of licenses for the location of public scales, and approving and fixing fees, under D.C. Code, sec. 10-128.

(199) Making regulations for the control, regulation, and supervision of markets under D.C. Code, sec. 10-130.

(200) Making regulations for the control, regulation, and operation of the municipal fish wharf and market under D.C. Code, sec. 10-135.

(201) Making and promulgating rules and regulations for the control and operation of the wholesale farmers' produce market, and establishing a scale of charges, under D.C. Code, sec. 10-137.

11. FEEBLE-MINDED PERSONS

(202) Adopting regulations relating to receiving feeble-minded persons into the District Training School under D.C. Code, sec. 21-1102.

(203) Prescribing general conditions for granting paroles to patients under D.C. Code, sec. 21-1120.

12. CRIMINAL OFFENSES

(204) Restricting, prohibiting, regulating, and controlling hunting and fishing and the taking, possession, and sale of wild animals under D.C. Code, sec. 22-1628.

(205) Prescribing regulations regarding the disposal of property under D.C. Code, sec. 22-1630(a) (last sentence).

(206) Making, altering, and amending harbor regulations under D.C. Code, sec. 22-1701.

(207) Establishing rules and regulations for the administration of the Act of August 12, 1937 (relating to the marketing and labeling of packages of potatoes) under D.C. Code, sec. 22-3409.

(208) Making rules and regulations to carry out the Act of December 16, 1941 (relating to food which is unwholesome or unfit for use) under D.C. Code, sec. 22-3419.

13. EXECUTION FEES

(209) Fixing the fees of an executioner and his assistants for services under D.C. Code, sec. 23-702.

14. PRISONERS; INSTITUTIONS

(210) Rules and regulations permitting the discharge of parolees under D.C. Code, sec. 24-204(b).

(211) Prescribing regulations for employment of persons sentenced to imprisonment in the jail under D.C. Code, sec. 24-412.

(212) Prescribing regulations regarding the sale of surplus products under D.C. Code, sec. 24-418.

(213) Rules and regulations for the government of institutions under D.C. Code, sec. 24-442.

15. ALCOHOLIC BEVERAGES

(214) Prescribing other authority under D.C. Code, sec. 25-106 (last sentence).

(215) Prescribing, making, altering, and amending rules and regulations under D.C. Code, sec. 25-107.

(216) Promulgating regulations under D.C. Code, sec. 25-111(c).

(217) Requiring by regulation that no licensee holding a retailer's license, Class A, B, C, D, or E shall transport any alcoholic beverage into the District of Columbia, permitting such importation under a special permit or permits, prescribing the terms, conditions, and manner of issuance of such permit or permits, and suspending, amending, revoking, or abolishing any such regulations, permit, or system of permits under D.C. Code, sec. 25-112.

(218) Promulgating regulations to permit owners of warehouse receipts to withdraw bonded liquors under D.C. Code, sec. 25-115(c).

(219) Suspending or revoking in whole or in part the requirements of D.C. Code, sec. 25-123, under D.C. Code, sec. 25-123(c).

(220) Prescribing by regulation methods or devices or both for the assessment, evidencing of payment, and collection of taxes under D.C. Code, sec. 25-124(c)(3).

(221) Requiring that the immediate container of each beverage contain the license number of each licensee who sells or offers for sale such beverages under D.C. Code, sec. 25-125(g).

(222) Prescribing the manner of collection and payment of tax on beer under D.C. Code, sec. 25-138.

16. CHARTERS OF INCORPORATION; MONEY LENDING

(223) Granting or refusing a charter of incorporation under D.C. Code, sec. 26-305.

(224) Making rules and regulations for the conduct of business of making loans, and for the enforcement of the Act of February 4, 1913, under D.C. Code, sec. 26-611.

17. TISSUE BANKS; CREMATORIUM

(225) By regulations, authorizing tissue banks and others to remove, transport, and dispose of tissue from dead bodies of human beings without permit under D.C. Code, sec. 27-119a.

(226) Making rules for the proper maintenance and operation of a public crematorium under D.C. Code, sec. 27-130.

18. STANDARD TIME

(227) Advancing the standard time applicable to the District of Columbia under D.C. Code, secs. 28-2711 and 28-2804.

19. CORPORATIONS

(228) Approving newspapers in which persons may give notice of intention to present to Congress bills for incorporation or for alteration or extension of corporation charters under D.C. Code, sec. 29-102.

(229) Fixing fees relating to process under D.C. Code, sec. 29-933(e)(2).

(230) Making rules and regulations relating to service of process under D.C. Code, sec. 29-933(e)(5).

(231) Providing an official seal under D.C. Code, sec. 29-935(c).

(232) Making and modifying regulations to carry out the Act of June 8, 1954, and prescribing penalties for the violation of any such regulations, under D.C. Code, sec. 29-935(f).

(233) Determining fee which shall be charged for furnishing a certificate as to the status of a corporation or as to the existence or nonexistence of facts relating to corporations under D.C. Code, sec. 29-936(b)(21).

(234) Making regulations providing for fees for services under D.C. Code, sec. 29-1092(s).

(235) Making and modifying regulations to carry out the provisions of the Act of August 6, 1962, and prescribing penalties for the violation of any such regulation, under D.C. Code, sec. 29-1093(e).

20. EDUCATION

(236) Approving amounts fixed by the Board of Education to be paid for non-residents to cover the expense of tuition and costs of textbooks and school supplies under D.C. Code, sec. 31-307(b).

(237) Approving regulations made by the Board of Education to carry out the intent and purposes of the Act of September 8, 1960 under D.C. Code, sec. 31-308 (a).

(238) Making rules and regulations for the purpose of carrying into full force and effect the provisions of the Act of January 15, 1920 under D.C. Code, sec. 31-717.

(239) Prescribing regulations regarding the deposit of additional sums by any teacher, and prescribing table of mortality, under D.C. Code, sec. 31-721.

(240) Making rules and regulations for the purpose of carrying the provisions of the Act of August 7, 1946 into full force and effect under D.C. Code, sec. 31-736.

(241) Making regulations concerning (i) the form of application by officers of any medical or dental college for registration and a permit to commence or continue business, (ii) the evidence to be adduced in support thereof, and (iii) the method of taking such evidence, giving notice of hearings upon applications, holding hearings, and making inquiries under D.C. Code, sec. 31-902.

(242) Closing streets and alleys under D.C. Code, sec. 31-1108.

(243) Promulgating rules and regulations governing the manner in which the District duties relating to surplus property shall be carried out, including the fixing of fees to be charged for services, under D.C. Code, sec. 31-1302.

(244) All functions vested in the Board of Commissioners of the District of Columbia by D.C. Code, sec. 31-1522(b).

21. INSTITUTIONS, AGENCIES, AND SERVICES

(245) Promulgating regulations to govern the establishment and maintenance of private hospitals and asylums, and regulating the issuance, suspension, and revocation of licenses, under D.C. Code, sec. 32-304.

(246) Making rules and regulations under D.C. Code, sec. 32-306.

(247) Establishing rates and regulations respecting the admission of pay patients under D.C. Code, sec. 32-308.

(248) Establishing rates and regulations respecting the admission of pay patients under D.C. Code, sec. 32-309.

(249) Establishing rates and regulations respecting the admission of patients under D.C. Code, sec. 32-310.

(250) Establishing rates and regulations respecting the admission of pay patients under D.C. Code, sec. 32-313.

(251) Prescribing rates for furnishing clinical services, drugs, pharmaceutical preparations, or x-ray service, and determining the necessity of using appropriations without regard to the rates prescribed, under D.C. Code, sec. 32-322.

(252) Establishing standards of indigency for admission of patients to municipal hospitals, and establishing rates at which, and regulations under which, emergency and semi-indigent patients may be admitted to wards of Gallinger Municipal Hospital on a full-or part-pay basis, under D.C. Code, sec. 32-326.

(253) Making rules and regulations for enforcing discipline, for imparting instruction or preserving health, and for the physical, intellectual, and moral training of the inmates of the institution for the custody, care, education, training, and treatment of feebleminded persons under D.C. Code, sec. 32-604.

(254) Approving rules and regulations, and approving amendments of rules and regulations prescribing standards of placement, care, and services to be required of child-placing agencies under D.C. Code, sec. 32-783.

(255) Making, altering, amending, and changing bylaws, rules and regulations for the government of the National Training School for Girls, its officers, teachers, employees, and inmates, the employment, discipline, instruction, education, removal, and absolute temporary, or conditional release of girls committed to the school under D.C. Code, sec. 32-904.

(256) Prescribing regulations respecting the sale of surplus products under D.C. Code, sec. 32-1009.

(257) Establishing rates and regulations respecting the care and treatment of any patients under D.C. Code, sec. 32-1010.

22. FOOD AND DRUGS

(258) Preparing rules and regulations with regard to the proper method of collecting and examining drugs and articles of food, under D.C. Code, sec. 33-104.

(259) Making regulations to protect the milk, cream, and ice cream supply of the District of Columbia under D.C. Code, sec. 33-307.

(260) Prescribing regulations under which milk and cream shall be pasteurized under D.C. Code, sec. 33-315.

(261) By regulation, including places other than creameries or receiving stations under the provisions of section 17 of the Act of February 27, 1925 under D.C. Code, sec. 33-317 (second sentence).

(262) Making rules and regulations for the administration and enforcement of the Narcotic Drug Act of June 20, 1938 under D.C. Code, sec. 33-405.

(263) Making rules and regulations to carry out the purposes of the Act of July 3, 1943 under D.C. Code, sec. 33-502.

(264) After reasonable public notice and opportunity for a hearing, finding and declaring drugs or compounds, preparations, or mixtures thereof to be habit-forming, excessively stimulating, or to have a dangerously toxic, or hypnotic or somnifacient effect on the body of a human or animal under D.C. Code, sec. 33-701(1)(C).

(265) After reasonable public notice and opportunity for hearing, declaring by rule or regulation duly promulgated that a compound, mixture, or preparation of barbituric acid, its salts and derivatives to have or contain no habit-forming properties and not to have a dangerously toxic or hypnotic or somnifacient effect

on the body of a human or animal under D.C. Code, sec. 33-703(1).

(266) After reasonable public notice and opportunity for hearing, finding and declaring by rule or regulation duly promulgated that a compound, mixture, or preparation of amphetamine, desoxyphedrine, phenolethylamine, or their salts or deviratives to contain in addition to such drug or its salts and derivatives some other drug or drugs causing it to possess other than an excessively stimulating effect upon the central nervous system and to have no habit-forming properties or dangerously toxic effect upon the body of a human or animal under D.C. Code, sec. 33-703(2).

(267) Promulgating regulations for the administration and enforcement of the Act of July 24, 1956 under D.C. Code, sec. 33-707

23. INSURANCE

(268) Making rules and regulations to make the conduct of each company in the same line of insurance conform in doing business in the District under D.C. Code, sec. 35-102.

(269) Prescribing rules and regulations for the hearing of appeals (of health, accident, and life insurance companies) under D.C. Code, sec. 35-202.

(270) Requiring, under D.C. Code, sec. 35-407, that at least once in the month of March in each year a summary of the annual financial statement filed thereunder be published in a daily newspaper.

(271) Making and prescribing rules and regulations (subject to the approval of the court) under D.C. Code, sec. 35-419 (penultimate paragraph).

(272) Requiring information, in addition to that specified in the statute, to be included in applications filed for licensing as life insurance general agent, agent, or solicitor under D.C. Code, sec. 35-425.

(273) Requiring information, in addition to that specified in the statute, to be included in applications for licensing as a life insurance broker under D.C. Code, sec. 35-428.

(274) Prescribing rules and regulations governing inspectors of elections held by policy holders of domestic stock life insurance companies for the purpose of converting to a mutual company under D.C. Code, sec. 35-519.

(275) Issuing rules and regulations to carry out the purposes of section 41 of the Act of June 19, 1934 under D.C. Code, sec. 35-541(f).

(276) Making rules and regulations concerning the procedure for the filing or submission of policies under D.C. Code, sec. 35-712-3(f); and making rules and regulations concerning the provisions in supplemental contracts and the submission and approval of such contracts under D.C. Code, sec. 35-712 (last proviso).

(277) Making rules and regulations necessary in making effective the provisions of the Fire and Casualty Act of October 9, 1940 under D.C. Code, sec. 35-1304.

(278) Approving agreements and bylaws established by the rating bureau for its governance, approving rules and regulations adopted by the rating bureau to carry out its functions, and approving amendments to such agreements, bylaws, rules, and regulations under D.C. Code, sec. 35-1404.

(279) Making and promulgating (i) regulations governing the enforcement of the provisions of the Act of May 20, 1948 (providing for regulation of casualty and other insurance rates), (ii) regulations necessary in making that Act effective, and (iii) rules for making compilations of statistical data available to companies and rating organizations under D.C. Code, sec. 35-1508.

24. LABOR

(280) Adopting and promulgating regulations defining terms under section 10 of the Act of February 24, 1914 (sec. 3, Public Law 89-684, approved October 15, 1966) [D.C. Code, sec. 36-309a].

(281) Making and revising regulations, including definition of terms, under section 8 of title I of the Act of September 19, 1918 (Public Law 89-684, approved October 15, 1966) [D.C. Code, sec. 36-408].

(282) Prescribing by regulation records or information necessary or appropriate for the enforcement of the provisions of the Act of September 19, 1918, as amended by Public Law 89-684, approved October 15, 1966, or of the regulations or orders issued thereunder, under section 11 of that Act [D.C. Code, sec. 36-411].

(283) (i) Determining and fixing standards of safety in employment, places of employment, in the use of devices and safeguards, and in the use of practices, means, methods, operations, and processes of employment, and (ii) promulgating general rules and regulations and fixing minimum safety requirements, under D.C. Code, sec. 36-433.

(284) Adopting and promulgating rules and regulations under D.C. Code, sec. 36-434.

(285) Promulgating regulations defining and delimiting the term "any person employed in a bona fide executive, administrative, or professional capacity" under D.C. Code, sec. 36-601(b).

25. MOTOR VEHICLES

(286) Providing by regulation for the issuance of (i) registration certificates and identification tags, (ii) duplicate, registration certificates or duplicate identification tags and (iii) special use identification tags under D.C. Code, sec. 40-102(b); and promulgating thereunder the regulations referred to in paragraphs (1) and (4) thereof.

(287) Extending the effective period of registration of motor vehicles under D.C. Code, sec. 40-102(c).

(288) Prescribing regulations to carry out provisions of law respecting registration of, and identification tags for, motor vehicles and trailers, under D.C. Code, sec. 40-102(e).

(289) Prescribing rules and regulations respecting the revocation or suspension of dealers' registrations and dealers' identification tags, including return of such tags, under D.C. Code, sec. 40-102(f).

(290) Prescribing tags treated with special reflective materials and fixing the additional fee charged in connection therewith under D.C. Code, sec. 40-103(a).

(291) Determining the percentage of fees for registration of motor vehicles and trailers to be credited to the General Fund of the District of Columbia under D.C. Code, sec. 40-103(d).

(292) Prescribing regulations relating to the issuance of motor vehicle operators' permits and to extending the validity of certain motor vehicle operators' permits under D.C. Code, secs. 40-301(a) (1) and (6).

(293) Prescribing by regulation matter to be stated on each motor vehicle operator's permit under D.C. Code, sec. 40-301(b).

(294) Making rules and regulations for the administration of the Motor Vehicle Safety Responsibility Act of the District of Columbia under D.C. Code, sec. 40-419.

(295) Making, modifying, and repealing rules and regulations under D.C. Code, sec. 40-603(a).

(296) Making and modifying regulations in respect to brakes, horns, lights, mufflers, and other equipment, the inspection of the same; the registering, reregistering, titling, retitling, transferring of titles, and revocation of the certificate of title to motor vehicles and trailers, under D.C. Code, sec. 40-603(c).

(297) Making, modifying, and repealing rules and regulations in respect to the movement of traffic, speed, length, weight, height, width, routing, and parking of vehicles, the establishment and location of hack stands, and the establishment and location of parking areas for use of members of Congress and Government officials, under D.C. Code, sec. 40-603(e).

(298) Making regulations with respect to the control of traffic under D.C. Code, sec. 40-603(f).

(299) Prescribing penalties under D.C. Code, sec. 40-603(g).

(300) Designating and reserving parking spaces for the use of members of the Congress under D.C. Code, sec. 40-604 (40 U.S.C. 60a).

(301) Permitting parking of motor vehicles in the Municipal Center, selecting officers and employees whose vehicles may be parked there, and making regulations for the control of the parking of such vehicles, including authority to prescribe fees and charges for the privilege of parking of such vehicles, under D.C. Code, sec. 40-604a(a).

(302) Permitting the public to park motor vehicles in a portion or portions of the Municipal Center, setting aside the portion or portions of that Center for such purpose, making regulations for the control of parking in the portion or portions so set aside (including the authority to restrict the privilege of parking therein to persons having business in the Municipal Center), making regulations to prohibit parking in all portions of the Municipal Center not set apart for such purposes, and prescribing fees and charges for the privilege of parking motor vehicles, under D.C. Code, sec. 40-604a(b).

(303) Prescribing penalties under D.C. Code, sec. 40-604a(c).

(304) Making rules and regulations for the control of the parking of vehicles, and prescribing fees for the privilege of parking vehicles under D.C. Code, sec. 40-616.

(305) Making regulations necessary in the furtherance of the purposes of D.C. Code, sec. 40-617 under the last sentence thereof.

(306) Establishing and revising uniform schedules of rates to be charged for use of space in each parking facility, providing rate differentials, prescribing and promulgating rules and regulations for the carrying out of the provisions of the District of Columbia Motor Vehicle Parking Facility Act of 1942, determining the time within which the cost of acquiring and improving the property shall be liquidated, and providing for the acquisition and improvement of other necessary parking facilities under D.C. Code, sec. 40-804(d).

(307) Making rules and regulations for the control of parking of vehicles, and prescribing fees for the parking of vehicles, under D.C. Code, sec. 40-804(e).

(308) Fixing the amount of collateral to be deposited under D.C. Code, sec. 40-810.

(309) Including fees within the definition of the term "Governmental charges" under D.C. Code, sec. 40-901(4).

(310) By regulation or order, determining, fixing, redetermining, and refixing, maximum finance charges under D.C. Code, sec. 40-902(d).

(311) Making regulations to carry out the purposes of section 2 of the Act of April 22, 1960 under D.C. Code, sec. 40-902(e)(1).

(312) Making additional regulations under D.C. Code, sec. 40-902(e)(2).

(313) Making classifications under D.C. Code, sec. 40- 902(e)(3).

(314) By regulation, (i) prohibiting the inclusion of certain provisions in any retail installment contract, and (ii) providing that waivers or purported waivers shall be void and of no effect, under D.C. Code, sec. 40-902(f).

(315) Prescribing by regulation security required of licensed persons, establishing classes and subclasses of persons, specifying the amount and conditions of the bond to be deposited by each of the members of any such class or subclasses, and by regulation requiring applicants for licenses (i) to furnish and keep in force a bond or other security, (ii) to procure and keep in force public liability insurance and property damage insurance, or both, and (iii) to appoint an attorney for the service of process and notices under D.C. Code, sec. 40-903(a).

(316) Promulgating regulations to carry out the purposes of Act, regulating retail installment sales of motor vehicles under D.C. Code, sec. 40-905.

26. PUBLIC UTILITIES

(317) Fixing regulations under which electric light companies may be authorized to construct, use and extend conduits, and prescribing regulations under which electric lighting companies may extend underground conduits and wires, under D.C. Code, sec. 43-1101.

(318) Prescribing conditions and regulations to permit the erection of poles and the stringing of overhead wires thereon under D.C. Code, sec. 43-1105.

(319) Making regulations concerning granting of permits for repair, enlargement, and extension of electric-lighting conduits under D.C. Code, sec. 43-1106.

(320) Making regulations concerning granting of permits for repair, enlargement, and extension of electric-lighting conduits under D.C. Code, sec. 43-1107.

(321) Prescribing regulations under D.C. Code, sec. 43-1406.

(322) Prescribing regulations under D.C. Code, sec. 43-1414.

(323) Making regulations for the proper distribution of water under D.C. Code, sec. 43-1503.

(324) Determining the frequency of levying and collecting water rates under D.C. Code, sec. 43-1504.

(325) Fixing the rates charged for water and water services under D.C. Code, sec. 43-1520c.

(326) Establishing charges for the provision of sanitary sewer service under D.C. Code, secs. 43-1605 and 43-1606.

(327) Promulgating regulations to effectuate purposes of Title II of the Act of May 18, 1954 under D.C. Code, sec. 43-1608.

(328) Imposing additional charges for unpaid sanitary sewer service charge under D.C. Code, sec. 43-1609.

(329) Making rules and regulations to carry out provisions of Public Works Act of 1954 under D.C. Code, sec. 43-1618.

(330) Prescribing regulations respecting the operation and maintenance of the Potomac Interceptor under D.C. Code, sec. 43-1621(a).

27. PASSENGER MOTOR VEHICLES FOR HIRE

(331) Approving form of, and terms and conditions of filing, evidence under D.C. Code, sec. 44-301.

(332) Making rules and regulations governing the writing of insurance, the making of bonds, and the business of insuring or bonding risks under D.C. Code, sec. 44-302.

28. REAL PROPERTY

(333) Prescribing by regulations extensions of time under D.C. Code, sec. 45-723(d)(1).

(334) Prescribing by regulation methods or devices, or both, for the evidencing of payment and the collection of taxes under D.C. Code, sec. 45-736.

(335) Prescribing rules and regulations to carry out the purposes of subchapter II of chapter 7 of title 45 of the D.C. Code, under D.C. Code, sec. 45-737.

(336) Adopting a seal and prescribing the design engraved thereon, and making, revising, or repealing regulations to carry out the provisions of chapter 14 of title 45 of the D.C. Code, under D.C. Code, sec. 45-1403.

(337) Requiring proof of the honesty, truthfulness, and integrity of the applicant under D.C. Code, sec. 45-1405.

29. SOCIAL SECURITY

(338) Prescribing regulations for estimating and determining the reasonable cash value of remuneration in any medium other than cash and for estimating and determining the reasonable amount of gratuities under D.C. Code, sec. 46-301(c).

(339) Prescribing by regulation the period of time as equivalent to a calendar quarter under D.C. Code, sec. 46-301(k).

(340) Prescribing the period of time to be used for the term "month" under D.C. Code, sec. 46-301(n).

(341) Prescribing by regulation the period of seven consecutive days to be used as a "week" under D.C. Code, sec. 46-301(o).

(342) Prescribing regulations specifying time within which employers shall make a return of, and pay contributions accrued with respect to, wages paid during

preceding calendar quarter with respect to employment under D.C. Code, sec. 46-304(b).

(343) Prescribing regulations respecting issuance of certificate of release of lien for taxes under D.C. Code, sec. 46-304(e).

(344) Prescribing the extent to which rulings, regulations, or decisions shall be applied without retroactive effect under D.C. Code, sec. 46-304(k).

(345) Prescribing regulations regarding reduction of benefits under D.C. Code, sec. 46-307(c).

(346) Prescribing regulations regarding the making of claims for benefits under D.C. Code, sec. 46-309(a).

(347) Prescribing regulations specifying the frequency and manner of registration and inquiries for work, and by regulation waiving or altering requirements for benefits, under D.C. Code, sec. 46-309(d).

(348) Prescribing regulations governing determinations as to what constitutes leaving work voluntarily without good cause under D.C. Code, sec. 46-310(a).

(349) Prescribing regulations under D.C. Code, sec. 46-310(c).

(350) Prescribing regulations under D.C. Code, sec. 46-310(e).

(351) Prescribing regulations under D.C. Code, sec. 46-311(a).

(352) Prescribing regulations under D.C. Code, sec. 46-311(e).

(353) Prescribing regulations under D.C. Code, sec. 46-311(e).

(354) Fixing rate of fees allowed witnesses under D.C. Code, sec. 46-311(g).

(355) Requiring bonds of employees under D.C. Code, sec. 46-313(a).

(356) Making regulations to carry out the provisions of chapter 3 of title 46 of the D.C. Code under D.C. Code, sec. 46-313(b).

(357) By regulations prescribing restrictions, subject to which information may be made available, under D.C. Code, sec. 46-313(f).

(358) Entering into reciprocal arrangements under D.C. Code, sec. 46-316(a).

(359) Prescribing work records to be kept, under D.C. Code, sec. 46-317(a).

30. TAXATION AND FISCAL AFFAIRS

(360) Fixing amounts of bonds under D.C. Code, secs. 47-113c and 47-120a.

(361) Requiring the giving of bond under D.C. Code, sec. 47-122.

(362) Requiring the giving of bond under D.C. Code, sec. 47-303.

(363) Ascertaining, determining, and fixing annually rate of taxation under D.C. Code, sec. 47-501.

(364) Determining whether any money raised in any fiscal year in excess of the needs for that year shall be available in the succeeding year for the purpose of meeting expenses or for enabling the fixing of a lower rate of taxation for the year following, or both, under D.C. Code, sec. 47-503.

(365) Reporting annually to the Congress the use being made of property specifically exempted from taxation, and any changes in such use, with recommendations, under D.C. Code, sec. 47-801a(e).

(366) Making and promulgating rules and regulations to carry out the intent and purposes of the Act of December 24, 1942 under D.C. Code, sec. 47-801f.

(367) Fixing date of sale of real property on which taxes are levied and in arrears under D.C. Code, sec. 47-1001.

(368) Requiring by regulation the times and manner of reporting income and the information to be reported under D.C. Code, sec. 47-1577a(b)(17) (last paragraph) (Public Law 89-591).

(369) Promulgating rules and regulations permitting as a deduction from gross income allowances for depletion of natural resources under D.C. Code, sec. 47-1557b (a)(7).

(370) Including in regulations tax table for elective use in connection with paying the tax under D.C. Code, sec. 47-1567b(b).

(371) Prescribing regulation or regulations for determining under formula or formulas provided therein the portion of net income subject to tax under the District of Columbia Income and Franchise Tax Act of 1947 under D.C. Code, sec. 47-1580a.

(372) Prescribing and promulgating all regulations referred to in D.C. Code, sec. 47-1586g.

(373) Prescribing and publishing rules and regulations for the enforcement of the District of Columbia Income and Franchise Tax Act of 1947 under D.C. Code, sec. 47-1595.

(374) Making rules and regulations to carry out the provisions of the District of Columbia Revenue Act of 1956 under D.C. Code, sec. 47-1595a.

(375) Making rules and regulations for enforcement of law imposing inheritance and estate taxes and providing for granting extensions of time under D.C. Code, sec. 47-1618.

(376) Prescribing regulations relating to issuing certificate releasing property from lien under D.C. Code, sec. 47-1623.

(377) Entering into a compact and issuing rules and regulations for the implementation of such compact under section 103 of Public Law 89-11, approved April 14, 1965 (79 Stat. 60) [D.C. Code, sec. 47-1901 note].

(378) Entering into an agreement, issuing rules and regulations for the implementation of such agreement, making exemptions from the coverage of the agreement, making changes in methods of reporting, and giving notice of withdrawal from the agreement, under sections 202, 203, and 205 of Public Law 89-11, approved April 14, 1965 (79 Stat. 65, 66).

(379) Promulgating regulations requiring information to be contained in applications under D.C. Code, sec. 47-1903(a)(5).

(380) Making regulations for the administration of the Act of April 23, 1924 (imposing tax on motor-vehicle fuels), and affixing thereto fines and penalties, under D.C. Code, sec. 47-1916.

(381) Determining penal sum of bond to be deposited by applicants for licenses under D.C. Code, sec. 47-2102.

(382) Adopting seal under D.C. Code, sec. 47-2301.

(383) Prescribing regulations for the public decency under D.C. Code, sec. 47-2328.

(384) Classifying buildings, and requiring licenses, under D.C. Code, sec. 47-2328.

(385) Directing as to the identification tags to be borne by licensed vehicles under D.C. Code, sec. 47-2331(f).

(386) Making and modifying regulations governing the conduct of licensed vendors under D.C. Code, sec. 47-2336.

(387) Making regulations for the examination of applicants for licenses under D.C. Code, sec. 47-2338.

(388) Classifying dealers in secondhand personal property under D.C. Code, sec. 47-2339.

(389) Making and promulgating regulations under D.C. Code, sec. 47-2340.

(390) Making regulations for the government and conduct of the business of licensed private detectives under D.C. Code, sec. 47-2341(d).

(391) Requiring a license of businesses or callings other than those specified in the Act and modifying any provision of the Act, under D.C. Code, sec. 47-2344.

(392) Prescribing additional subjects in which applicants for license as undertaker shall be examined under D.C. Code, sec. 47-2344a(b).

(393) Promulgating and altering rules and regulations under D.C. Code, sec. 47-2344a(d)(6).

(394) Making regulations under D.C. Code, sec. 47-2345(a).

(395) Providing by regulation that any inspection shall be made either prior or subsequent to the issuance of a license under D.C. Code, sec. 47-2345(b).

(396) Requiring that a class or subclasses of licenses give bond, and fixing the amount of such bond, under D.C. Code, sec. 47-2345(c).

(397) Making rules and regulations to carry out the provisions of the District of Columbia Revenue Act of

1937, and prescribing and publishing rules and regulations for the enforcement of the Revenue Act of 1939, under D.C. Code, sec. 47-2502.

(398) Prescribing amounts to be added to sales prices and collected from purchasers under D.C. Code, sec. 47-2604(a).

(399) Prescribing regulations governing refunds to vendors of amounts repaid to purchasers under D.C. Code, sec. 47-2617(a).

(400) Making, adopting, and amending regulations under D.C. Code, sec. 47-2620.

(401) Prescribing methods for determining the gross proceeds from sales made or services rendered and for the allocation of such sales and services into taxable and nontaxable sales under D.C. Code, sec. 47-2621(c).

(402) Requiring vendors to keep detailed records, and to furnish information, under D.C. Code, sec. 47-2621(d).

(403) Requiring vendors to file bond, determining the sureties necessary, and the duration of the bond under D.C. Code, sec. 47-2708.

(404) Requiring purchasers to include in monthly returns (relating to compensating-use tax) information necessary for the computation and collection of the tax under D.C. Code, sec. 47-2711(a).

(405) Requiring returns of purchasers to be made for periods and upon dates other than those specified in the Act, and specifying such periods and dates, under D.C. Code, sec. 47-2711(b).

(406) By regulation, including wrapper within the definition of "original package" under D.C. Code, sec. 47-2801(g).

(407) By regulation, permitting tax stamps to be affixed other than to original packages, and approving regulations prescribing the manner of cancellation of stamps, under D.C. Code, sec. 47-2802(c).

(408) Prescribing stamps denoting payment of tax, under D.C. Code, sec. 47-2802(d).

(409) By regulation permitting licensees to pay tax by imprinting impressions upon original packages by the use of metering devices under D.C. Code, sec. 47-2802(h).

(410) By regulation, prescribing terms and conditions for allowing discount from the face value of tax stamps under D.C. Code, sec. 47-2802(i).

(411) Approving regulations permitting cigarettes to be sold in number less than the number contained in the original package, and fixing fee for retailer's license, under D.C. Code, sec. 47-2805(A).

(412) By regulation, requiring that a separate license be obtained for each vending machine or permitting a blanket license for one or more machines, prescribing that evidence of licensing of machines be attached to each machine by means of markers, stickers, or otherwise, and fixing the annual fee for licenses, under D.C. Code, sec. 47-2805(B).

(413) By regulation, authorizing the issuance of a license for a place outside the District of Columbia and authorizing the terms and conditions therefor, and fixing the annual fee for license, under D.C. Code, sec. 47-2805 (C)(3).

(414) Fixing by regulation periods for which licenses shall remain in effect, under D.C. Code, sec. 47-2806.

(415) Making rules and regulations to carry out the provisions of chapter 28 of title 47 of the D.C. Code, under D.C. Code, sec. 47-2808.

(416) Prescribing regulations respecting refunds or allowances as credit on purchase of new tax stamps under D.C. Code, sec. 47-2811(a).

(417) Promulgating regulations to carry out the purposes of the Act of September 1, 1959 under D.C. Code, sec. 47-3009.

31. MISCELLANEOUS

(418) Promulgating rules and regulations with respect to the solicitation and voting of proxies, consents, and authorizations under section 2(a) of the Act of April 18, 1966 (Public Law 89-402; 80 Stat. 123) [D.C. Code, sec. 35-222(a)].

(419) By rules and regulations, exempting a transaction or transactions, under section 3(b) (last sentence) of the Act of April 18, 1966 (Public Law 89-402; 80 Stat. 124) [D.C. Code, sec. 35-223(b)].

(420) By rules and regulations, defining and prescribing terms and conditions under section 3(d) (last sentence) of the Act of April 18, 1966 (Public Law 89-402; 80 Stat. 124) [D.C. Code, sec. 35-223(d)].

(421) Adopting, prescribing, and making the rules and regulations referred to in sections 3(e), 3(f), and 3(h) of the Act of April 18, 1966 (Public Law 89-402; 80 Stat. 124; 125) [D.C. Code, sec. 35-223 (e), (f), (h)].

(422) Making regulations to secure the preservation of public order and protection of life, health, and property, making special regulations respecting the standing, movement, and operation of vehicles, and fixing fees for special licenses, under the first section of the Act of July 19, 1966 (Public Law 89-514; 80 Stat. 320).

(423) Adopting rules and regulations to carry out the purposes of the District of Columbia Certified Public Accountancy Act of 1966 (Public Law 89-578, approved September 16, 1966), under section 5 of that Act (80 Stat. 787) [D.C. Code, sec. 2-914].

(424) Making rules and regulations to carry out the District of Columbia Revenue Act of 1966 (Public Law 89-610, approved September 30, 1966) under section 1005 of that Act (80 Stat. 859) [D.C. Code, sec. 25-124 note].

(425) Appointing two directors of the Washington Metropolitan Area Transit Authority (80 Stat. 1326) [D.C. Code, sec. 1-1431 note]. Those directors shall be appointed from among a group of individuals consisting of the following: (1) The members of the District of Columbia Council, (2) the Commissioner of the District of Columbia, and (3) the Assistant to the Commissioner of the District of Columbia (provided for in section 302 of this reorganization plan).

(426) Promulgating rules and regulations for the administration of the work release program under section 5 of the District of Columbia Work Release Act (Public Law 89-803; 80 Stat. 1519) [D.C. Code, sec. 24-464].

(427) [Pub. L. 90-623, § 7(b), Oct. 22, 1968, 82 Stat. 1315, provided that paragraph was to have no further effect. Paragraph covered the fixing of stipends of student employees under 5 U.S.C. 5352].

(428) [Pub. L. 90-623, § 7(b), Oct. 22, 1968, 82 Stat. 1315, provided that paragraph was to have no further effect. Paragraph covered the fixing of the value of accommodates to be deducted from stipends under 5 U.S.C. 5353].

(429) [Pub. L. 90-623, § 7(b), Oct. 22, 1968, 82 Stat. 1315, provided that paragraph was to have no further effect. Paragraph covered the prescribing and issuing, or provision for the prescribing and issuing, of regulations under 5 U.S.C. 5527(b)].

(430) Prescribing regulations for the destruction of animals or live poultry affected with contagious, infectious, or communicable disease, and for the proper disposition of their hides and carcasses, and prescribing regulations for disinfection and other regulations, under section 8 of the Act of May 29, 1884, c. 60, 23 Stat. 33, as amended (21 U.S.C. 130) [D.C. Code, sec. 1-230a].

(431) Agreeing to the closing and vacating of alleys and portions of streets under section 8(b) of the Public Buildings Act of 1959, P.L. 86-249, 73 Stat. 481, as amended (40 U.S.C. 607(b)).

(432) The functions under Title VI of the Act of October 14, 1940, c.862, as amended (42 U.S.C. 1581-1590) which are now vested in the Board of Commissioners of the District of Columbia pursuant to the provisions of section 610 of that Act, as amended (42 U.S.C. 1590).

SEC. 403. *Budget.* Functions with respect to requests for regular, supplemental, or deficiency appropriations for the District of Columbia (made in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) or in pursuance of any other provision of law) are hereby transferred so as to accord with the following:

(a) The Commissioner of the District of Columbia shall prepare such requests and submit them to the District of Columbia Council.

(b) If the Council approves the requests so submitted, without revision, it shall return them to the Commissioner and the Commissioner shall submit them to the Bureau of the Budget.

(c) If the Council revises the requests so submitted to the Council, it shall return them, with the revisions, to the Commissioner. If the Commissioner concurs in the revisions he shall submit the revised requests to the Bureau of the Budget.

(d) If the Commissioner does not concur in any one or more of the revisions proposed by the Council he shall return the requests, together with the Council's revisions, to the Council and append a statement of the reasons for not concurring. If the Council, by a three-fourths vote of its members present and voting insists upon any one or more of its original revisions, it shall return the requests and the revisions upon which it insists to the Commissioner within five days and so inform him, and he shall submit the requests, incorporating the revisions upon which the Council insists, to the Bureau of the Budget. If such a three-fourths vote does not prevail or the Council does not act on the requests, the Council shall return the requests to the Commissioner and he shall submit them (without the revisions) to the Bureau of the Budget.

(e) If the Council does not approve or revise the requests within thirty days next following their receipts, the requests shall be deemed to be approved by the Council.

(f) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under this section of concurring or not concurring in revisions of requests proposed by the Council.

SEC. 404. *Zoning Commission.* Functions of the members of the Board of Commissioners of the District of Columbia with respect to serving as members of the Zoning Commission (D.C. Code, sec. 5-412) are hereby transferred as follows:

(a) Those of the President of the Board of Commissioners are transferred to the Chairman of the District of Columbia Council.

(b) Those of the Engineer Commissioner are transferred to the Commissioner of the District of Columbia.

(c) Those of the other member of the Board of Commissioners are transferred to the Vice Chairman of the Council.

SEC. 405. *Officers of the Corporation.* The functions of the Commissioners of the District of Columbia with respect to being officers of the Corporation under D.C. Code, sec. 1-103 are hereby transferred to the members of the District of Columbia Council and to the Commissioner of the District of Columbia in such manner as to accord with the transfers of functions to the Council and the Commissioner, respectively, as effected by the provisions of the foregoing sections of Part IV of this reorganization plan.

SEC. 406. *Approval or disapproval by Commissioner.* (a) Each and every action taken by the Council in pursuance of authority transferred to it by the provisions of this reorganization plan in respect of rules or regulations (exclusive of rules and regulations respecting the internal organization or functioning of the Council or the appointment or direction of personnel employed by the Council) or in respect of penalties or taxes shall be promptly presented to the Commissioner of the District of Columbia (provided for in Part III of this reorganization plan) for his approval or disapproval.

(b) If the Commissioner approves an action of the Council presented to him under subsection (a) of this section, that action shall become effective immediately or at such later time as may be specified in the action of the Council.

(c) If the Commissioner neither approves nor disapproves an action of the Council before the expiration of the first period of ten calendar days following the date on which the action is presented to him by the Council, the action of the Council shall become effective without the approval of the Commissioner upon the expiration of the ten-day period or at such later time as may be specified in the action of the Council.

(d) Where the Commissioner disapproves an action of the Council before the expiration of the first period of ten calendar days following the date on which the action is presented to him by the Council, he shall return the action to the Council before such expiration together with a statement of the reasons for his disapproval. No action so returned shall become effective, except that such an action shall become effective if the Council re-adopts the action by a three-fourths vote of the Council members present and voting within thirty days next following the return of the action to the Council. Any action which becomes effective under the subsection shall be effective upon the readoption thereof by the Council or upon such later date as may be specified in the action of the Council.

(e) The authority of the Commissioner under section 305 of this reorganization plan (to delegate functions) shall not extend to his functions under the foregoing subsections of section 406.

PART V. MISCELLANEOUS PROVISIONS

SEC. 501. *Status of certain agencies.* (a) Functions now vested in any agency listed in subsection (b) of this section, or in any officer or body of or under such agency, shall remain so vested; but all functions of the Board of Commissioners of the District of Columbia, and all functions of the President of that Board or of any other member of the Board, relating to the listed agency or its functions or to an officer or body thereof or to the functions of such officer or body shall be deemed to be transferred by Part IV of this reorganization plan.

(b) The following agencies of the Corporation are the agencies referred to subsection (a) of this section:

(1) Board of Education (including the public school system)

(2) Board of Library Trustees (including the public libraries)

(3) Recreation Board

(4) Public Service Commission

(5) Zoning Commission

(6) Zoning Advisory Council

(7) Board of Zoning Adjustment

(8) Office of the Recorder of Deeds

(9) Armory Board

SEC. 502. *Incidental transfers.* (a) The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the offices of the Board of Commissioners of the District of Columbia or in connection with the offices of the commissioners composing that Board shall be transferred as follows at such time or times as the Director of the Bureau of the Budget shall direct:

(1) So much thereof as the Director of the Bureau of the Budget shall determine to relate primarily to functions transferred to the District of Columbia Council by the provisions of this reorganization plan shall be transferred to that Council.

(2) All other thereof shall be transferred to the Commissioner of the District of Columbia.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(c) Unless and until other provision is made in pursuance of section 304 of this reorganization plan or by law, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds which are now under the jurisdiction of the Board of Commissioners of the District of Columbia and are not affected by the provisions of subsection (a) of this section shall continue to be attached to or available for the several agencies of the Corporation.

SEC. 503. *Abolitions.* (a) Without prejudice to the continuation of the Corporation, there is hereby abolished the Board of Commissioners of the District of Columbia.

(b) The abolition effected by subsection (a) of this section includes the abolition of the office held by an officer of the Corps of Engineers of the United States Army as the Engineer Commissioner of the District of Columbia (10) U.S.C. 3534(a); D.C. Code, sec. 1-201) and the two other offices of Commissioner of the District of Columbia, but nothing in this reorganization plan shall preclude the detail by the President of not more than three officers assigned to the Corps of Engineers to assist the Commissioner of the District of Columbia in discharging his duties (10 U.S.C. 3534(b); D.C. Code, sec. 1-212).

(c) The joint board authorized and created by section 6(e) of the Act of March 3, 1925, 43 Stat. 1121, as amended (D.C. Code, sec. 40-603(e)), together with its functions, is hereby abolished.

(d) The Commissioner of the District of Columbia shall make such provisions as he may deem necessary with respect to winding up the affairs of (1) the Board of Commissioners of the District of Columbia, and (2) the joint board on traffic.

SEC. 504. *Effective dates.* (a) Except as otherwise provided in subsection (b) of this section, the provisions of this reorganization plan shall take effect on the date determined under section 906(a) of title 5 of the United States Code.

(b) Part IV and sections 501, 502, and 503 of this reorganization plan shall take effect when for the first time there are in office under this reorganization plan both (1) the Commissioner provided for in Part III hereof, and (2) not less than six members of the Council provided for in Part II hereof or on such later date as may be specified by the President of the United States.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I am transmitting Reorganization Plan No. 3 of 1967 to provide a better government for the citizens of the Nation's Capital.

The explosive growth of the District of Columbia challeges the city on every front—from schools and hospitals, courts and police, to housing and transportation, recreation and job opportunities. If the District is to meet these tests and fulfill the needs of its citizens, it must, as I said in my message on the National Capital, "have the most responsive and efficient government we are capable of providing."

The plan I submit today is more than a matter of routine reorganization. Its vital purpose is to bring Twentieth Century government to the Capital of this Nation: to strengthen and modernize the government of the District of Columbia; to make it as efficient and effective as possible.

The present form of District government was designed almost a century ago for a community of 150,000 people. The District government then employed less than 500 persons and administered a budget of less than four million dollars.

Today Washington has a population of 800,000. It is the center of the country's fastest growing metropolitan area with a population of 2.5 million. The District's Government now employs some 30,000 people and the proposed 1968 budget is more than half a billion dollars.

The machinery designed more than 90 years ago to govern a small community is now obsolete. The commission form of government—unorthodox when the Congress accepted it as a temporary measure in 1874—provides neither effective nor efficient government for the Nation's Capital. That form of government has long since been abandoned by the few cities which adopted it around the turn of the century. Today none of the Nation's 27 largest cities and only two of the country's 47 cities with populations exceeding 300,000 have a government of divided authority.

The District of Columbia is governed by three Commissioners. Each Commissioner is the chief executive—the mayor—but for only a part of the government. Yet, the problems of the District of Columbia, like those of any major city, cannot be neatly broken into three parts. Any effort to control crime, for example, cuts across virtually every function of government—from police and corrections to housing, education, health and employment. An effective attack on the problem requires action by two or more Commissioners and the Departments for which they are separately responsible—a time-consuming and often costly process.

The District has been fortunate in the caliber and dedication of the men who have served as Commissioners, but it can no longer afford divided executive authority. Its government must be able to respond promptly and effectively to new demands and new conditions. This requires clear-cut executive authority and flexible government machinery—not divided authority which too often results in prolonged negotiations and inaction.

The problem of divided executive authority in the District is aggravated by the additional non-executive responsibilities now borne by the Commissioners. As a member of the Board of Commissioners, each must now make rules and regulations on matters with which he is not otherwise concerned as an executive. Some of these quasi-legislative responsibilities—such as police regulations and property taxation—are of great importance to the city. Many—such as the naming of streets and the labeling of potato packages—are merely time-consuming. None should require a substantial portion of the time of the chief executive of a major city.

The reorganization plan I propose would remedy these deficiencies in the present form of government. It would:

- —Unify executive and administraitve authority.
- —Eliminate competing and sometimes conflicting assignments of responsibility.
- —Provide for the informed exercise of quasi-legislative functions through a Council which would be bipartisan and representative of the community.
- —Permit the single Commissioner to organize the District government to provide effective day-to-day administration.

Under the plan, subject to Senate confirmation, the President would appoint a single Commissioner as chief executive and a bipartisan Council of nine members. The Commissioner would serve a four-year term, corresponding to that of the President. Council members would serve three-year terms, with three members to be appointed each year. The staggered terms would insure continuity of experience on the Council.

The plan would abolish the present Board of Commissioners of the District of Columbia. Its powers and responsibilities would be apportioned between the single Commissioner and the Council.

The Commissioner would be assigned the executive functions now vested in the Board of Commissioners. He would be given responsibility and authority to organize and manage the District government, to administer its programs and to prepare its budget. The plan also provides for an Assistant to the Commissioner to help him carry out these responsibilities.

The Council would be assigned the quasi-legislative functions now performed by the Board of Commissioners. The plan describes more than 430 functions which would be transferred to the Council. These include major responsibilities such as the approval of boundaries and plans for urban renewal, establishment of rules governing the licensing of professions, and setting of rates for property taxation. The Council would also be empowered to review and revise the Commissioner's budget before submission to the President.

Since the plan was announced in my Message on the Nation's Capital, we have been working to strengthen the Office of Commissioner and the Council. Out of this process of refinement four key changes have emerged, and have been incorporated into the plan.

First, the plan would authorize the Commissioner to veto actions of the Council with which he disagrees. The Council, in turn, could override such a veto by a three-fourths vote of its members. This provides due recognition for the responsibilities of the chief executive, while at the same time preserving the right of the Council to act on matters of overriding importance.

Second, the terms of Council members would be set at three years instead of two. The reduction in turnover and increase in experience would add strength to the Council.

Third, the salaries of the Chairman, Vice Chairman and Council members would be increased to reflect their important responsibilities.

Finally, the plan recognizes that the machinery of the District's government, no matter how modern, cannot realize its highest purpose unless it is infused with the most experienced, informed and able leadership.

The 800,000 citizens of the District of Columbia deserve nothing less than such leadership, not only as a matter of fundamental right but because the District occupies a special and central role in the affairs of the Nation.

The best talent available must be found for the key posts of Commissioner and Assistant to the Commissioner. The Commissioner is the chief executive of the District of Columbia. The Assistant to the Commissioner will be his chief aide, his deputy, and will perform such duties as the Commissioner may prescribe.

In the search for leadership necessary in these crucial posts, the President and the Congress must balance the need to draw from the best talent in the Nation with the need for local experience and local involvement that are such valuable assets to enlightened municipal government. The plan therefore provides for the Presidential appointment of both these men, subject to Senate confirmation, with the requirement that at least one of them to be a resident of the District for three years prior to appointment.

We would be indifferent to the cause of good government if the search and selection of the Commissioner and his Assistant were confined only to those who reside within the geographic boundaries of the District. This plan does not take that course. It provides a wide range of choice—opening the field not only to those who reside in the District, but to those who live in other parts of the Nation. At the same time, the plan assures that local experience will be well represented in the highest councils of the District Government.

Not only must either of the top executive positions be filled with a District resident, but each member of the nine-man Council must have been a resident of the District for at least three years prior to appointment.

Moreover, in selecting the Commissioner, I will look first to the residents of the District and I hope that he can be found here.

Of all the benefits of the plan, one stands out in particular—the strong leadership it provides as the cornerstone of support for any effective attack against crime. With that leadership and with the continued commitment and devotion of its police, the District can move with a greater sense of sureness and purpose against the spectre of crime that haunts the streets and shops of the Nation's Capital.

Of all the duties of the new single Commissioner none will be more important than his leadership in a renewed community effort to stem the rising tide of crime in the District.

The reorganization plan has been prepared in accordance with chapter 9 of title 5 of the United States Code. At my direction, it has been discussed with each member of the interested Committees of Congress or with their Staff Assistants. I have found, after investigation, that each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code.

I have also found that it is necessary to include in the plan, by reason of the reorganization made, provisions for the appointment and compensation of the new officers specified in sections 201, 203 and 301—303 of the plan. The rates of compensation fixed for these officers are comparable to those fixed for officers in the executive branch of the Government having similar responsibilities.

The functions which would be abolished by the provisions of section 503(c) of the reorganization plan are provided for in subsection (e) of Section 6 of the Act of March 3, 1925, 43 Stat. 1121, as amended (D.C. Code, sec. 40-603(e)).

The plan would not impair the corporate status of the District of Columbia government. Nor would it in any way detract from the powers which the Congress exercises with respect to the District.

This reorganization plan would provide improved management of the municipal responsibilities vested by Congress in the government of the District of Columbia. It would bring savings to the District taxpayers and the Federal Government, although overall costs will not be less because of the increasing scale and complexity of municipal government. The precise amount of such savings cannot be itemized at this time.

The proposed reorganization is in no way a substitute for home rule. As I stated in my Message on the Nation's Capital, the plan

> will give the District a better organized and more efficient government . . . but only home rule will provide the District with a democratic government—of, by and for its citizens.

I remain convinced more strongly than ever that Home Rule is still the truest course. We must continue to work toward that day—when the citizens of the District will have the right to frame their own laws, manage their own affairs, and choose their own leaders. Only then can we redeem that historic pledge to give the District of Columbia full membership in the American Union.

I recommend that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, June 1, 1967.

REORGANIZATION PLAN NO. 1 OF 1968

Eff. Apr. 8, 1968, 33 F.R. 5611, 82 Stat. 1367, as amended Reorg. Plan No. 2 of 1973, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 7, 1968, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

NARCOTICS; DRUG ABUSE CONTROL

SECTION 1. TRANSFER OF FUNCTIONS FROM TREASURY DEPARTMENT

There are hereby transferred to the Attorney General:

(a) Those functions of the Secretary of the Treasury which are administered through or with respect to the Bureau of Narcotics.

(b) All functions of the Bureau of Narcotics, of the Commissioner of Narcotics, and of all other officers, employees and agencies of the Bureau of Narcotics.

(c) So much of other functions or parts of functions of the Secretary of the Treasury and the Department of the Treasury as is incidental to or necessary for the performance of the functions transferred by paragraphs (a) and (b) of this section.

SEC. 2. TRANSFER OF FUNCTIONS FROM THE DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

There are hereby transferred to the Attorney General:

(a) The functions of the Secretary of Health, Education, and Welfare under the Drug Abuse Control Amendments of 1965 (Public Law 89-74; 79 Stat. 226) [see Short Title note under section 360a of Title 21], except the function of regulating the counterfeiting of those drugs which are not controlled "depressant or stimulant" drugs.

(b) So much of other functions or parts of functions of the Secretary of Health, Education, and Welfare, and of the Department of Health, Education, and Welfare, as is incidental to or necessary for the performance of the functions transferred by paragraph (a) of this section.

SEC. 3. BUREAU OF NARCOTICS AND DANGEROUS DRUGS

(a) [Repealed. Reorg. Plan No. 2 of 1973, § 3, eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091.]

(b) There are hereby established in the Department of Justice, in addition to the positions transferred to that Department by this Plan, four new positions, appointment to which shall be made by the Attorney General in the competitive service. Two of those positions shall have compensation at the rate now or hereafter provided for GS-18 positions of the General Schedule and the other two shall have compensation at the rate now or hereafter provided for GS-16 positions of the General Schedule (5 U.S.C. 5332). Each such position shall have such title and duties as the Attorney General shall prescribe.

SEC. 4. ABOLITION

The Bureau of Narcotics in the Department of the Treasury, including the office of Commissioner of Narcotics (21 U.S.C. 161), is hereby abolished. The Secretary of the Treasury shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics not otherwise provided for in this reorganization plan.

SEC. 5. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any officer, employee, or organizational entity of the Department of Justice.

SEC. 6. INCIDENTAL TRANSFERS

(a) There are hereby transferred to the Department of Justice all of the positions, personnel, property, records, and unexpended balances of appropriations, allocations, and other funds, available or to be made available, (1) of the Bureau of Narcotics, and (2) of the Bureau of Drug Abuse Control of the Department of Health, Education, and Welfare.

(b) There shall be transferred to the Department of Justice, at such time or times as the Director of the Bureau of the Budget shall direct, so much as the Director shall determine of other positions, personnel, property, records and unexpended balances of appropriations, allocations, and other funds of the Department of the Treasury and of the Department of Health, Education, and Welfare employed, used, held, available or to be made available in connection with functions transferred by the provisions of this reorganization plan.

(c) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided in this section shall be carried out in such manner as he may direct and by such agencies as he shall designate.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

In my first Reorganization Plan of 1968, I call for the creation of a new and powerful Bureau of Narcotics and Dangerous Drugs.

With this action, America will serve notice to the pusher and the peddler that their criminal acts must stop.

No matter how well organized they are, we will be better organized. No matter how well they have concealed their activities, we will root them out.

Today, Federal investigation and enforcement of our narcotics laws are fragmented. One major element—the Bureau of Narcotics—is in the Treasury Department and responsible for the control of marihuana and narcotics such as heroin. Another—the Bureau of Drug Abuse Control—is in the Department of Health, Education, and Welfare, and is responsible for the control of dangerous drugs including depressants, stimulants, and hallucinogens such as LSD.

Neither is located in the agency which is primarily concerned with Federal law enforcement—the Department of Justice.

This separation of responsibilities—despite the relentless and dedicated efforts of the agents of each Bureau—has complicated and hindered our response to a national menace.

For example, more than nine out of ten seizures of LSD made by the Bureau of Drug Abuse Control have also turned up marihuana—but that Bureau has no jurisdiction over marihuana.

In many instances, we are confronted by well organized, disciplined and resourceful criminals who reap huge profits at the expense of their unfortunate victims.

The response of the Federal Government must be unified. And it must be total.

Today, in my Message on Crime, I recommended strong new laws to control dangerous drugs. I also recommended an increase of more than thirty percent in the number of Federal agents enforcing the narcotic and dangerous drug laws.

I now propose that a single Bureau of Narcotics and Dangerous Drugs be established in the Department of Justice to administer those laws and to bring to the American people the most efficient and effective Federal enforcement machinery we can devise.

Under this Reorganization Plan the Attorney General will have full authority and responsibility for enforcing the Federal laws relating to narcotics and dangerous drugs. The new Bureau of Narcotics and Dangerous Drugs, to be headed by a Director appointed by the Attorney General, will:

—consolidate the authority and preserve the experience and manpower of the Bureau of Narcotics and the Bureau of Drug Abuse Control.

—work with states and local governments in their crackdown on illegal trade in drugs and narcotics, and help to train local agents and investigators.

—maintain worldwide operations, working closely with other nations, to suppress the trade in illicit narcotics and marihuana.

—conduct an extensive campaign of research and a nationwide public education program on drug abuse and its tragic effects.

The Plan I forward today moves in the direction recommended by two distinguished groups:

—the 1949 Hoover Commission.

—the 1963 Presidential Advisory Commission on Narcotic and Drug Abuse.

This Administration and this Congress have the will and the determination to stop the illicit traffic in drugs.

But we need more than the will and the determination. We need a modern and efficient instrument of Government to transform our plans into action. That is what this Reorganization Plan calls for.

The Plan has been prepared in accordance with chapter 9 of title 5 of the United States Code.

I have found, after investigation, that each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code.

I have also found that, by reason of these reorganizations, it is necessary to include in the accompanying plan provisions for the appointment and compensation of the five new positions as specified in section 3 of the plan. The rates of compensation fixed for these new positions are those which I have found to prevail in respect of comparable positions in the Executive Branch of the Government.

Should the reorganization I propose take effect, they will make possible more effective and efficient administration of Federal law enforcement functions. It is not practicable at this time, however, to itemize the reduction in expenditures which may result.

I recommend that the Congress allow this urgently needed and important Reorganization Plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 7, 1968.

REORGANIZATION PLAN NO. 2 OF 1968

Eff. June 30, 1968, 33 F.R. 6965, 82 Stat. 1369

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, February 26, 1968, pursuant to the provisions of chapter 9 of Title 5 of the United States Code.

URBAN MASS TRANSPORTATION

SECTION 1. TRANSFER OF FUNCTIONS

(a) There are hereby transferred to the Secretary of Transportation:

(1) The functions of the Secretary of Housing and Urban Development and the Department of Housing and Urban Development under the Urban Mass Transportation Act of 1964 (78 Stat. 302; 49 U.S.C. 1601-1611), except that there is reserved to the Secretary of Housing and Urban Development (i) the authority to make grants for or undertake such projects or activities under sections 6(a), 9, and 11 of that Act (49 U.S.C. 1605(a); 1607a; 1607c) as primarily concern the relationship of urban transportation systems to the comprehensively planned development of urban areas, or the role of transportation planning in overall urban planning, and (ii) so much of the functions under sections 3, 4, and 5 of the Act (49 U.S.C. 1602-1604) as will enable the Secretary of Housing and Urban Development (A) to advise and assist the Secretary of Transportation in making findings and determinations under clause (1) of section 3(c), the first sentence of section 4(a), and clause (1) of section 5 of the Act, and (B) to establish jointly with the Secretary of Transportation the criteria referred to in the first sentence of section 4(a) of the Act.

(2) Other functions of the Secretary of Housing and Urban Development, and functions of the Department of Housing and Urban Development or of any agency or officer thereof, all to the extent that they are incidental to or necessary for the performance of the functions transferred by section 1(a)(1) of this reorganization plan, including, to such extent, the functions of the Secretary of Housing and Urban Development and the Department of Housing and Urban Development under (i) title II of the Housing Amendments of 1955 (69 Stat. 642; 42 U.S.C. 1491-1497), insofar as functions thereunder involve assistance specifically authorized for mass transportation facilities or equipment, and (ii) title IV of the Housing and Urban Development Act of 1965 (79 Stat. 485; 42 U.S.C. 3071-3074).

(3) The functions of the Department of Housing and Urban Development under section 3(b) of the Act of November 6, 1966 (P.L. 89-774; 80 Stat. 1352; 40 U.S.C. 672(b)).

(b) Any reference in this reorganization plan to any provision of law shall be deemed to include, as may be appropriate, reference thereto as amended.

SEC. 2. DELEGATION

The Secretary of Transportation may delegate any of the functions transferred to him by this reorganization plan to such officers and employees of the Department of Transportation as he designates, and may authorize successive redelegations of such functions.

SEC. 3. URBAN MASS TRANSPORTATION ADMINISTRATION

(a) There is hereby established within the Department of Transportation an Urban Mass Transportation Administration.

(b) The Urban Mass Transportation Administration shall be headed by an Urban Mass Transportation Administrator, who shall be appointed by the President, by and with the advice and consent of the Senate. The Administrator shall perform such duties as the Secretary of Transportation shall prescribe and shall report directly to the Secretary. [Amended. Pub. L. 90-623, § 7(d), Oct. 22, 1968, 82 Stat. 1316, rendered of no further effect the provision setting the compensation of the Urban Mass Transportation Administrator. That compensation is now fixed by section 5314(52) of Title 5.]

SEC. 4. INTERIM ADMINISTRATOR

The President may authorize any person who immediately prior to the effective date of this reorganization plan holds a position in the executive branch of the government to act as Urban Mass Transportation Administrator until the office of Administrator is for the first time filled pursuant to the provisions of section 3(b) of this reorganization plan or by recess appointment, as the case may be. The person so designated shall be entitled to the compensation attached to the position he regularly holds.

SEC. 5. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Secretary of Transportation by this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred from the Department of Housing and Urban Development to the Department of Transportation at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 6. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect at the close of June 30, 1968, or at the time determined under the provisions of section 906(a) of title 5 of the United States Code, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

As long as he has lived in cities, man has struggled with the problem of urban transportation. But:

—Never before have these problems affected so many of our citizens.

—Never before has transportation been so important to the development of our urban centers.

—Never before have residents of urban areas faced a clearer choice concerning urban transportation—shall it dominate and restrict enjoyment of all the values of urban living, or shall it be shaped to bring convenience and efficiency to our citizens in urban areas.

How America and its cities solve the transportation problem depends largely on our two newest Federal Departments—the Department of Transportation and the Department of Housing and Urban Development.

—The Department of Housing and Urban Development is responsible for the character of all urban development.

—The Department of Transportation is concerned specifically with all the modes of transportation and their efficient inter relationship.

At present, responsibility for program assistance for urban highways and urban airports, and urban mass transportation is divided between the Department of

Transportation and the Department of Housing and Urban Development. As a result:

- —Federal coordination of transportation systems assistance is more difficult that it need be.
- —Communities which have measured their own needs and developed comprehensive transportation proposals must deal with at least two federal agencies to carry out their programs.

To combine efficiently the facilities and services necessary for our urban centers and to improve transportation within our cities, State and local government agencies should be able to look to a single federal agency for program assistance and support. The large future cost of transportation facilities and services to the Federal Government, to State and local governments, and to the transportation industry makes side investments and efficient transportation systems essential.

An urban transportation system must:

- —combine a basic system of efficient, responsive mass transit with all other forms and systems of urban, regional, and inter-city transportation;
- —conform to and support balanced urban development.

In this, my second reorganization plan of 1968, I ask the Congress to transfer urban mass transportation programs to the Secretary of Transportation and to establish an Urban Mass Transportation Administration within the Department of Transportation to strengthen the organizational capacity of the Federal Government to achieve these objectives.

The plan transfers to and unifies in a new Urban Mass Transportation Administration in the Department of Transportation those functions which involve urban mass transportation project assistance and related research and development activities. Because urban research and planning and transportation research and planning are closely related, however, the plan provides that the Department of Housing and Urban Development perform an important role in connection with transportation research and planning insofar as they have significant impact on urban development.

We expect the Department of Transportation to provide leadership in transportation policy and assistance. The Department of Housing and Urban Development will provide leadership in comprehensive planning at the local level that includes transportation planning and relates it to broader urban development objectives.

The transfer of urban mass transportation programs will not diminish the overall responsibilities of the Department of Housing and Urban Development with respect to our cities. Rather, adequate authority is reserved to that Department to enable it to join with the Department of Transportation to assure that urban transportation develops as an integral component of the broader development of growing urban areas.

The new Urban Mass Transportation Administration in the Department of Transportation, working with other elements of the Department, will consolidate and focus our efforts to develop and employ the most modern transportation technology in the solution of the transportation problems of our cities.

The reorganization plan provides for an Administrator at the head of the Administration who would be appointed by the President, by and with the advice and consent of the Senate. The Administrator would report directly to the Secretary of Transportation and take his place in the Department with the heads of the Federal Aviation Administration, Federal Highway Administration, Federal Railroad Administration and the Coast Guard.

I have found, after investigation, that each reorganization included in the reorganization plan transmitted herewith is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code.

I have also found that it is necessary to include in the accompanying plan, by reason of these reorganizations, provisions for the appointment and compensation of the new officer specified in section 3(b) of the plan. The rate of compensation fixed for this officer is comparable to those fixed for officers in the Executive Branch of the Government having similar responsibilities.

The reorganizations included in this plan will provide more effective management of transportation programs. It is not feasible to itemize the reduction in expenditures which the plan will achieve, but I have no doubt that this reorganization will preserve and strengthen overall comprehensive planning for developing urban areas while simultaneously insuring more efficient transportation systems for our cities than would otherwise have occurred.

I strongly urge that the Congress allow the reorganization plan to become effective.

LYNDON B. JOHNSON.

THE WHITE HOUSE, February 26, 1968.

REORGANIZATION PLAN NO. 3 OF 1968

Eff. June 30, 1968, 33 F.R. 7747, 82 Stat. 1370

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1968, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

DISTRICT OF COLUMBIA RECREATION FUNCTIONS

SECTION 1. DEFINITIONS

(a) As used in this reorganization plan, the term "the Recreation Board" means the District of Columbia Recreation Board provided for in D.C. Code, sec. 8–201 and in other law.

(b) References in this reorganization plan to any provision of the District of Columbia Code are references to the provisions of statutory law codified under that provision and include the said provision as amended, modified, or supplemented prior to the effective date of this reorganization plan.

SEC. 2. TRANSFER OF FUNCTIONS TO COMMISSIONER

There are hereby transferred to the Commissioner of the District of Columbia all functions of the Recreation Board or of its chairman and members and all functions of the Superintendent of Recreation (appointed pursuant to D.C. Code, sec. 8–209).

SEC. 3. DELEGATIONS

The functions transferred by the provisions of section 2 hereof shall be subject to the provisions of section 305 of Reorganization Plan No. 3 of 1967 (32 F.R. 11671) [set out in this Appendix].

SEC. 4. INCIDENTAL TRANSFERS

(a) All personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, used, available, or to be made available in connection with the functions of the Recreation Board or the Superintendent of Recreation are hereby transferred to the Commissioner of the District of Columbia.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem to be necessary in order to effectuate the transfers provided in subsection (a) of this section shall be carried out in such manner as he may direct and by such agencies as he shall designate.

SEC. 5. ABOLITION

The Recreation Board, together with the position of Superintendent of Recreation, is hereby abolished. The Commissioner of the District of Columbia shall make such provisions as he may deem necessary with respect to winding up the outstanding affairs of the Recreation Board and the Superintendent of Recreation.

SEC. 6. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect at the close of June 30, 1968 or on the date determined under section 906(a) of title 5 of the United States Code, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

In the past few years Congress and the President have pledged to make the Nation's Capital a model of excellence for America: in government, in housing, in city planning, in law enforcement, in transportation.

But the equality of any city is not just a matter of efficiency and public order. If it is to be truly great, the city must be lively and inviting—a place of beauty and pleasure.

The city's life is lived not only in its buildings, but in its pools, playgrounds and recreation centers, in the places where the young gather to find excitement and delight, where the old come to find relaxation, fresh air, companionship.

In Washington, recreation is a vital element of the city's school enrichment activities, its model city project and its summer programs.

But the D.C. Recreation Department is not an integral part of the District Government. With its six-member independent board, the autonomy of the Department prevents the D.C. Commissioner from providing policy supervision to the city's recreation activities and from relating them to other community service programs—in health, education, child care, and conservation.

There is no reason to distinguish between recreation and other community service programs now vested in the Commissioner.

Accordingly, I am today submitting to the Congress Reorganization Plan No. 3 of 1968. This plan brings recreation programs under the authority of the D.C. Commissioner. It enables the new City Government to make recreation an integral part of its strategy to bring more and better community services to the people who live in the city.

The Plan achieves these objectives by abolishing the present Recreation Board and the Office of the Superintendent of Recreation. It transfers their functions to the D.C. Commissioner.

The accompanying reorganization plan has been prepared in accordance with chapter 9 of title 5 of the United States Code. I have found, after investigation, that each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code.

Closer coordination of recreation with other municipal improvement programs of the District Government and the improved efficiency of recreation management will produce a higher return on the taxpayer's investment in recreation programs, though the amount of savings cannot be estimated at this time.

I urge the Congress to permit this reorganization plan to take effect.

LYNDON B. JOHNSON.

THE WHITE HOUSE, March 13, 1968.

REORGANIZATION PLAN NO. 4 OF 1968

Eff. May 23, 1968, 33 F.R. 7749, 82 Stat. 1371

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 13, 1968, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

DISTRICT OF COLUMBIA REDEVELOPMENT LAND AGENCY

SECTION 1. APPOINTMENTS

(a) The functions of the President of the United States with respect to appointing certain members of the Board of Directors of the District of Columbia Redevelopment Land Agency (D.C. Code, sec. 5-703) are hereby transferred to the Commissioner of the District of Columbia.

(b) Nothing in this reorganization plan shall be deemed to terminate the tenure of any member of the Board of Directors of the District of Columbia Redevelopment Land Agency now in office.

SEC. 2. RELATIONSHIP OF BOARD OF DIRECTORS AND COMMISSIONER

(a) There are transferred from the Board of Directors of the District of Columbia Redevelopment Land Agency to the Commissioner of the District of Columbia the functions of adopting, prescribing, amending and repealing bylaws, rules, and regulations for the exercise of the powers of the Board under D.C. Code, secs. 5-701 to 5-719 or governing the manner in which its business may be conducted (D.C. Code, sec. 5-703(b)).

(b) Any part of the functions transferred by this section may be delegated by the Commissioner to the Board.

SEC. 3. REFERENCES TO DISTRICT OF COLUMBIA CODE

References in this reorganization plan to any provision of the District of Columbia Code are references to the provisions of statutory law codified under that provision and include the said provision as amended, modified, or supplemented prior to the effective date of this reorganization plan.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

Urban Renewal is a vital weapon in the Nation's attack on urban blight and physical decay. In the firm hands of a local executive determined to improve the face of his city, it is a powerful tool of reform.

In the District of Columbia, urban renewal is managed by a Federal Agency, the D.C. Redevelopment Land Agency, headed by an independent five-man Board of Directors. Although the District Government pays the entire local share of the costs of urban renewal and although the Commissioner of the District of Columbia appoints three of the five members of the RLA Board, the Agency need not follow the Commissioner's leadership or administrative direction.

To strengthen the D.C. Commissioner's authority to initiate and guide the administration of urban renewal, I am today transmitting to the Congress Reorganization Plan No. 4 of 1968. This plan:

—gives the D.C. Commissioner the authority to appoint all five members of the RLA Board, by transferring to him the appointment function now vested in the President;

—transfers to him the authority to prescribe the rules and regulations governing the conduct of business by RLA. This function is now vested in the Board of Directors.

Urban Renewal involves slum clearance, demolition, the relocation of families, the provision of new housing, the stimulation of rehabilitation and new employment. Throughout the Nation, it is clear that authority and leadership by the local chief executive is essential to weld together the full range of municipal functions and community service programs to change conditions in city slums.

In our Capital City the hopes for a balanced New Town and new housing development on the Fort Lincoln site in Northeast Washington, the rebuilding of the Shaw neighborhood, and a successful Model Cities program hinge on the leadership of the D.C. Commissioner. Members of the Congress have repeatedly stressed the need to establish the Commissioner's effective control of all functions essential to local redevelopment. The attached plan takes a major step toward that objective.

The Plan does not alter the corporate status of the Redevelopment Land Agency or any of the authorities now vested by law in the Agency.

The accompanying reorganization plan has been prepared in accordance with chapter 9 of title 5 of the United State Code. I have found, after investigation, that each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code.

There are no direct savings deriving from this plan. However, it will improve the management of programs aimed at reviving the deteriorated social, economic, and physical structure of this city, our National Capital. The benefits and savings from a more successful attack on these problems cannot be estimated in advance, but their reality cannot be denied.

To achieve our goal of a model Capital, I therefore urge the Congress to permit this reorganization plan to take effect.

LYNDON B. JOHNSON.

THE WHITE HOUSE, March 13, 1968.

REORGANIZATION PLAN NO. 1 OF 1969

Eff. Oct. 11, 1969, 34 F.R. 15783, 83 Stat. 859

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, July 22, 1969, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.

INTERSTATE COMMERCE COMMISSION

SECTION 1. TRANSFER OF FUNCTIONS TO THE CHAIRMAN

(a) Subject to the provisions of subsection (b) of this section, there are hereby transferred from the Interstate Commerce Commission, hereinafter referred to as the Commission, to the Chairman of the Commission, hereinafter referred to as the Chairman, the executive and administrative functions of the Commission, including functions of the Commission with respect to (1) the appointment and supervision of personnel employed under the Commission, (2) the distribution of business among such personnel and among administrative units of the Commission, and (3) the use and expenditure of funds.

(b) (1) In carrying out any of his functions under the provisions of this section the Chairman shall be governed by general policies of the Commission and by such regulatory decisions, findings, and determinations as the Commission may by law be authorized to make.

(2) The appointment by the Chairman of the heads of major administrative units under the Commission shall be subject to the approval of the Commission.

(3) Personnel employed regularly and full time in the immediate offices of commissioners other than the Chairman shall not be affected by the provisions of this reorganization plan.

(4) Requests for regular, supplemental, or deficiency appropriations for the Commission (prepared by or under the Chairman in pursuance of section 214 of the Budget and Accounting Act, 1921, as amended (31 U.S.C. 22) and as affected by this reorganization plan) shall require the approval of the Commission prior to the submission of the requests to the Bureau of the Budget by the Chairman.

(5) There are hereby reserved to the Commission its functions with respect to determining upon the distribution of appropriated funds according to major programs and purposes.

SEC. 2. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Chairman may from time to time make such provisions as he shall deem appropriate authorizing the performance by any officer, employee, or administrative unit under his jurisdiction of any function transferred to the Chairman by the provisions of section 1 of this reorganization plan.

SEC. 3. DESIGNATION OF CHAIRMAN

(a) The function of the Commission of choosing the Chairman from among the commissioners composing the Commission is hereby transferred to the President of the United States.

(b) Nothing in this reorganization plan shall preclude the Commission from designating a commissioner to be the acting chairman of the Commission and to perform the functions of the Chairman during any period of time when (by reason of death, resignation, or other cause) no Presidentially designated Chairman is available to perform them.

SEC. 4. TAKING EFFECT

Section 3 of this reorganization plan shall take effect on the first day of January, 1970, and the other sections hereof shall take effect on the date determined under section 906(a) of title 5 of the United States Code.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

The Interstate Commerce Commission, oldest of the Federal regulatory agencies, has jurisdiction over 17,000 carriers—rail and motor, water and pipeline, express companies and freight forwarders. Its decisions help shape the scope and character of the Nation's transportation system.

But, as important as the Commission is, as extensive as its jurisdiction is, it is hampered by:

1. Lack of continuity

The Chairman of the Commission serves only a year, selected by annual rotation from among the eleven Commissioners. In no other major Federal regulatory agency is the President without the power to designate the Chairman.

2. Lack of leadership

The Chairman does not have vested in him by law the executive and administrative functions of the Commission. As a result there is no firm and clear legal responsibility for the management of the Commission's day-to-day affairs.

To change this situation, I am sending to the Congress today Reorganization Plan No. 1 of 1969, prepared in accordance with chapter 9 of title 5 of the United States Code.

1. Continuity

The Chairman of the Interstate Commerce Commission is the Commission's spokesman, its key link to other agencies and the industry, the supervisor of its staff, and director of its internal operation. Yet today, despite the need for sustained leadership, the Chairman of this agency serves only one year. I know of no modern business that would tolerate the practice of annually rotating its chief executive.

To provide the necessary continuity of leadership in the conduct of the Commission's administrative affairs, I propose that the President be authorized to designate the Chairman of the Commission from among its members. This principle of good management has already been taken with respect to most other major Federal regulatory agencies. The time has come to apply it to the Interstate Commerce Commission.

2. Leadership

The administrative powers of the Chairman must be strengthened.

In 1961, the Commission delegated its administrative powers to its Chairman. However, unless and until the administrative powers are vested in the Chairman by law, statutory authority will remain dispersed among the Commissioners.

Almost 20 years ago the Hoover Commission emphasized that "Administration by a plural executive is universally regarded as inefficient." It then recommended that all administrative responsibility be assigned to chairmen of these regulatory agencies.

That recommendation is as sound today as it was then. It has already been applied to almost every other major Federal regulatory agency. I propose that administrative authority be vested in the Chairman of the Interstate Commerce Commission.

In sum, the reorganization plan provides continuity of leadership and vests responsibility for internal administrative functions in a chairman designated by the President, with safeguards to ensure that the Commission retains full control over policy and the direction of its regulatory programs. This does not affect the statutory provisions governing the exercise of quasi-legislative and quasi-judicial powers by the Commission and its employees to whom it has delegated the responsibility of hearing and deciding cases.

Each reorganization included in the plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable." This plan will help achieve those ends.

This plan should result in more efficient operation of the Commission. To itemize or aggregate resulting expenditure reductions under the plan is not practicable. I shall continue to explore other ways to make the Commission structure more effective.

I strongly recommend that the Congress permit this necessary reorganization plan to become effective.

RICHARD NIXON.

THE WHITE HOUSE, July 22, 1969.

REORGANIZATION PLAN NO. 1 OF 1970

Eff. Apr. 20, 1970, 35 F.R. 6421, 84 Stat. 2083

Prepared by the President and Transmitted to the Senate and the House of Representatives in Congress Assembled, February 9, 1970, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.

OFFICE OF TELECOMMUNICATIONS POLICY

SECTION 1. TRANSFER OF FUNCTIONS

The functions relating to assigning frequencies to radio stations belonging to and operated by the United States, or to classes thereof, conferred upon the President by the provisions of section 305(a) of the Communications Act of 1934, 47 U.S.C. 305(a), are hereby transferred to the Director of the Office of Telecommunications Policy hereinafter provided for.

SEC. 2. ESTABLISHMENT OF OFFICE

There is hereby established in the Executive Office of the President the Office of Telecommunications Policy, hereinafter referred to as the Office.

SEC. 3. DIRECTOR AND DEPUTY

(a) There shall be at the head of the Office the Director of the Office of Telecommunications Policy, hereinafter referred to as the Director. The Director shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(b) There shall be in the Office a Deputy Director of the Office of Telecommunications Policy who shall be appointed by the President by and with the advice and consent of the Senate and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Director shall perform such functions as the Director may from time to time prescribe and, unless the President shall designate another person to so act, shall act as Director during the absence or disability of the Director or in the event of vacancy in the office of Director.

(c) No person shall while holding office as Director or Deputy Director engage in any other business, vocation, or employment.

SEC. 4. PERFORMANCE OF FUNCTIONS OF DIRECTOR

(a) The Director may appoint employees necessary for the work of the Office under the classified civil service and fix their compensation in accordance with the classification laws.

(b) The Director may from time to time make such provisions as he shall deem appropriate authorizing the performance of any function transferred to him hereunder by any other officer, or by any organizational entity or employee, of the Office.

SEC. 5. ABOLITION OF OFFICE

That office of Assistant Director of the Office of Emergency Preparedness held by the Director of Telecommunications Management under Executive Order No. 10995 of February 16, 1962, as amended, is abolished. The Director of the Office of Emergency Preparedness shall make such provisions as he may deem to be necessary with respect to winding up any outstanding affairs of the office abolished by the foregoing provisions of this section.

SEC. 6. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, held, or used by, or available or to be made available to, the Office of Emergency Preparedness in connection with functions affected by the provisions of this reorganization plan as the Director of the Bureau of the Budget shall determine shall be transferred to the Office of Telecommunications Policy at such time or times as he shall direct.

(b) Such further measures and dispositions as the Director of the Bureau of the Budget shall deem necessary in order to effectuate the transfers provided for in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 7. INTERIM DIRECTOR

The President may authorize any person who immediately prior to the effective date of this reorganization plan holds a position in the Executive Office of the President to act as Director of the Office of Telecommunications Policy until the office of Director is for the first time filled pursuant to the provisions of section 3 of this reorganization plan or by recess appointment, as the case may be. The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office of Director. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

We live in a time when the technology of telecommunications is undergoing rapid change which will dramatically affect the whole of our society. It has long been recognized that the executive branch of the Federal government should be better equipped to deal with the issues which arise from telecommunications growth. As the largest single user of the nation's telecommunications facilities, the Federal government must also manage its internal communications operations in the most effective manner possible.

Accordingly, I am today transmitting to the Congress Reorganization Plan No. 1 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code.

That plan would establish a new Office of Telecommunications Policy in the Executive Office of the

President. The new unit would be headed by a Director and a Deputy Director who would be appointed by the President with the advice and consent of the Senate. The existing office held by the Director of Telecommunications Management in the Office of Emergency Preparedness would be abolished.

In addition to the functions which are transferred to it by the reorganization plan, the new Office would perform certain other duties which I intend to assign to it by Executive order as soon as the reorganization plan takes effect. That order would delegate to the new Office essentially those functions which are now assigned to the Director of Telecommunications Management. The Office of Telecommunications Policy would be assisted in its research and analysis responsibilities by the agencies and departments of the Executive Branch including another new office, located in the Department of Commerce.

The new Office of Telecommunications Policy would play three essential roles:

1. It would serve as the President's principal adviser on telecommunications policy, helping to formulate government policies concerning a wide range of domestic and international telecommunications issues and helping to develop plans and programs which take full advantage of the nation's technological capabilities. The speed of economic and technological advance in our time means that new questions concerning communications are constantly arising, questions on which the government must be well informed and well advised. The new Office will enable the President and all government officials to share more fully in the experience, the insights, and the forecasts of government and non-government experts.

2. The Office of Telecommunications Policy would help formulate policies and coordinate operations for the Federal government's own vast communications systems. It would, for example, set guidelines for the various departments and agencies concerning their communications equipment and services. It would regularly review the ability of government communications systems to meet the security needs of the nation and to perform effectively in time of emergency. The Office would direct the assignment of those portions of the radio spectrum which are reserved for government use, carry out responsibilities conferred on the President by the Communications Satellite Act, advise State and local governments, and provide policy direction for the National Communications System.

3. Finally, the new Office would enable the executive branch to speak with a clearer voice and to act as a more effective partner in discussions of communications policy with both the Congress and the Federal Communications Commission. This action would take away none of the prerogatives or functions assigned to the Federal Communications Commission by the Congress. It is my hope, however, that the new Office and the Federal Communications Commission would cooperate in achieving certain reforms in telecommunications policy, especially in their procedures for allocating portions of the radio spectrum for government and civilian use. Our current procedures must be more flexible if they are to deal adequately with problems such as the worsening spectrum shortage.

Each reorganization included in the plan which accompanies this message is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the government to the fullest extent practicable."

The reorganizations provided for in this plan make necessary the appointment and compensation of new officers, as specified in sections 3(a) and 3(b) of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

This plan should result in the more efficient operation of the government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

The public interest requires that government policies concerning telecommunications be formulated with as much sophistication and vision as possible. This reorganization plan—and the executive order which would follow it—are necessary instruments if the government is to respond adequately to the challenges and opportunities presented by the rapid pace of change in communications. I urge that the Congress allow this plan to become effective so that these necessary reforms can be accomplished.

RICHARD NIXON.

THE WHITE HOUSE, February 9, 1970.

REORGANIZATION PLAN NO. 2 OF 1970

Eff. July 1, 1970, 35 F.R. 7959, 84 Stat. 2085

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress Assembled, February 9, 1970, Pursuant to the Provisions of Chapter 9 of Title 5 of the United States Code.

OFFICE OF MANAGEMENT AND BUDGET, DOMESTIC COUNCIL

PART I. OFFICE OF MANAGEMENT AND BUDGET

SECTION 101. TRANSFER OF FUNCTIONS TO THE PRESIDENT

There are hereby transferred to the President of the United States all functions vested by law (including reorganization plan) in the Bureau of the Budget or the Director of the Bureau of the Budget.

SEC. 102. OFFICE OF MANAGEMENT AND BUDGET

(a) The Bureau of the Budget in the Executive Office of the President is hereby designated as the Office of Management and Budget.

(b) The offices of Director of the Bureau of the Budget and Deputy Director of the Bureau of the Budget, and the offices of Assistant Directors of the Bureau of the Budget which are established by statute (31 U.S.C. 16a and 16c), are hereby designated Director of the Office of Management and Budget, Deputy Director of the Office of Management and Budget, and Assistant Directors of the Office of Management and Budget, respectively.

(c) There shall be within the Office of Management and Budget not more than six additional officers, as determined from time to time by the Director of the Office of Management and Budget (hereinafter referred to as the Director). Each such officer shall be appointed by the Director, subject to the approval of the President, under the classified civil service, shall have such title as the Director shall from time to time determine, and shall receive compensation at the rate now or hereafter prescribed for offices and positions at Level V of the Executive Schedule (5 U.S.C. 5316).

(d) The Office of Management and Budget and the Director shall perform such functions as the President may from time to time delegate or assign thereto. The Director, under the direction of the President, shall supervise and direct the administration of the Office of Management and Budget.

(e) The Deputy Director of the Office of Management and Budget, the Assistant Directors of the Office of Budget designated by this reorganization plan, and the officers provided for in subsection (c) of this section shall perform such functions as the Director may from time to time direct.

(f) The Deputy Director (or during the absence or disability of the Deputy Director or in the event of a vacancy in the office of Deputy Director, such other officials of the Office of Management and Budget in such order as the President may from time to time designate) shall act as Director during the absence or disability of the Director or in the event of a vacancy in the office of Director.

SEC. 103. RECORDS, PROPERTY, PERSONNEL, AND FUNDS

The records, property, personnel, and unexpended balances, available or to be made available, of appropriations, allocations, and other funds of the Bureau of the Budget shall, upon the taking effect of the provisions of this reorganization plan, become records, property, personnel, and unexpended balances of the Office of Management and Budget.

PART II. DOMESTIC COUNCIL

SEC. 201. ESTABLISHMENT OF THE COUNCIL

(a) There is hereby established in the Executive Office of the President a Domestic Council, hereinafter referred to as the Council.

(b) The Council shall be composed of the following:
The President of the United States
The Vice President of the United States
The Attorney General
Secretary of Agriculture
Secretary of Commerce
Secretary of Health, Education, and Welfare
Secretary of Housing and Urban Development
Secretary of the Interior
Secretary of Labor
Secretary of Transportation
Secretary of the Treasury
and such other officers of the Executive Branch as the President may from time to time direct.

(c) The President of the United States shall preside over meetings of the Council: *Provided*, That, in the event of his absence, he may designate a member of the Council to preside.

SEC. 202. FUNCTIONS OF THE COUNCIL

The Council shall perform such functions as the President may from time to time delegate or assign thereto.

SEC. 203. EXECUTIVE DIRECTOR

The staff of the Council shall be headed by an Executive Director who shall be an assistant to the President designated by the President. The Executive Director shall perform such functions as the President may from time to time direct.

PART III. TAKING EFFECT

SEC. 301. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1970, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

We in government often are quick to call for reform in other institutions, but slow to reform ourselves. Yet nowhere today is modern management more needed than in government itself.

In 1939, President Franklin D. Roosevelt proposed and the Congress accepted a reorganization plan that laid the groundwork for providing managerial assistance for a modern Presidency.

The plan placed the Bureau of the Budget within the Executive Office of the President. It made available to the President direct access to important new management instruments. The purpose of the plan was to improve the administration of the Government—to ensure that the Government could perform "promptly, effectively, without waste or lost motion."

Fulfilling that purpose today is far more difficult—and more important—than it was 30 years ago.

Last April, I created a President's Advisory Council on Executive Organization and named to it a distinguished group of outstanding experts headed by Roy L. Ash. I gave the Council a broad charter to examine ways in which the Executive Branch could be better organized. I asked it to recommend specific organizational changes that would make the Executive Branch a more vigorous and more effective instrument for creating and carrying out the programs that are needed today. The Council quickly concluded that the place to begin was in the Executive Office of the President itself. I agree.

The past 30 years have seen enormous changes in the size, structure and functions of the Federal Government. The budget has grown from less than $10 billion to $200 billion. The number of civilian employees has risen from one million to more than two and a half million. Four new Cabinet departments have been created, along with more than a score of independent agencies. Domestic policy issues have become increasingly complex. The interrelationships among Government programs have become more intricate. Yet the organization of the President's policy and management arms has not kept pace.

Over three decades, the Executive Office of the President has mushroomed but not by conscious design. In many areas it does not provide the kind of staff assistance and support the President needs in order to deal with the problems of government in the 1970s. We confront the 1970s with a staff organization geared in large measure to the tasks of the 1940s and 1950s.

One result, over the years, has been a tendency to enlarge the immediate White House staff—that is, the President's personal staff, as distinct from the institutional structure—to assist with management functions for which the President is responsible. This has blurred the distinction between personal staff and management institutions; it has left key management functions to be performed only intermittently and some not at all. It has perpetuated outdated structures.

Another result has been, paradoxically, to inhibit the delegation of authority to Departments and agencies.

A President whose programs are carefully coordinated, whose information system keeps him adequately informed, and whose organizational assignments are plainly set out, can delegate authority with security and confidence. A President whose office is deficient in these respects will be inclined, instead, to retain close control of operating responsibilities which he cannot and should not handle.

Improving the management processes of the President's own office, therefore, is a key element in improving the management of the entire Executive Branch, and in strengthening the authority of its Departments and agencies. By providing the tools that are needed to reduce duplication, to monitor performance and to promote greater efficiency throughout the Executive Branch, this also will enable us to give the country not only more effective but also more economical government—which it deserves.

To provide the management tools and policy mechanisms needed for the 1970s, I am today transmitting to the Congress Reorganization Plan No. 2 of 1970, prepared in accordance with Chapter 9 of Title 5 of the United States Code.

This plan draws not only on the work of the Ash Council itself, but also on the work of others that preceded—including the pioneering Brownlow Committee of 1936, the two Hoover Commissions, the Rockefeller Committee, and other Presidential task forces.

Essentially, the plan recognizes that two closely connected but basically separate functions both center in the President's office: policy determination and executive management. This involves (1) what government should do, and (2) how it goes about doing it.

My proposed reorganization creates a new entity to deal with each of these functions:

—It establishes a Domestic Council, to coordinate policy formulation in the domestic area. This Cabinet group would be provided with an institutional staff, and to a considerable degree would be a domestic counterpart to the National Security Council.

—It establishes an Office of Management and Budget, which would be the President's principal arm for the exercise of his managerial functions.

The Domestic Council will be primarily concerned with *what* we do; the Office of Management and Budget will be primarily concerned with *how* we do it, and *how well* we do it.

DOMESTIC COUNCIL

The past year's experience with the Council for Urban Affairs has shown how immensely valuable a Cabinet-level council can be as a forum for both discussion and action on policy matters that cut across departmental jurisdictions.

The Domestic Council will be chaired by the President. Under the plan, its membership will include the Vice President, and the Secretaries of the Treasury, Interior, Agriculture, Commerce, Labor, Health, Education and Welfare, Housing and Urban Development, and Transportation, and the Attorney General. I also intend to designate as members the Director of the Office of Economic Opportunity and, while he remains a member of the Cabinet, the Postmaster General. (Although I continue to hope that the Congress will adopt my proposal to create, in place of the Post Office Department, a self-sufficient postal authority.) The President could add other Branch officials at his discretion.

The Council will be supported by a staff under an Executive Director who will also be one of the President's assistants. Like the National Security Council staff, this staff will work in close coordination with the President's personal staff but will have its own institutional identity. By being established on a permanent, institutional basis, it will be designed to develop and employ the "institutional memory" so essential if continuity is to be maintained, and if experience is to play its proper role in the policy-making process.

There does not now exist an organized, institutionally-staffed group charged with advising the President on the total range of domestic policy. The Domestic Council will fill that need. Under the President's direction, it will also be charged with integrating the various aspects of domestic policy into a consistent whole.

Among the specific policy functions in which I intend the Domestic Council to take the lead are these:

—Assessing national needs, collecting information and developing forecasts, for the purpose of defining national goals and objectives.

—Identifying alternative ways of achieving these objectives, and recommending consistent, integrated sets of policy choices.

—Providing rapid response to Presidential needs for policy advice on pressing domestic issues.

—Coordinating the establishment of national priorities for the allocation of available resources.

—Maintaining a continuous review of the conduct of ongoing programs from a policy standpoint, and proposing reforms as needed.

Much of the Council's work will be accomplished by temporary, ad hoc project committees. These might take a variety of forms, such as task forces, planning groups or advisory bodies. They can be established with varying degrees of formality, and can be set up to deal either with broad program areas or with specific problems. The committees will draw for staff support on Department and agency experts, supplemented by the Council's own staff and that of the Office of Management and Budget.

Establishment of the Domestic Council draws on the experience gained during the past year with the Council for Urban Affairs, the Cabinet Committee on the Environment and the Council for Rural Affairs. The principal key to the operation of these Councils has been the effective functioning of their various subcommittees. The Councils themselves will be consolidated into the Domestic Council. Urban, Rural and Environment subcommittees of the Domestic Council will be strengthened, using access to the Domestic Council staff.

Overall, the Domestic Council will provide the President with a streamlined, consolidated domestic policy arm, adequately staffed, and highly flexible in its operation. It also will provide a structure through which departmental initiatives can be more fully considered, and expert advice from the Departments and agencies more fully utilized.

OFFICE OF MANAGEMENT AND BUDGET

Under the reorganization plan, the technical and formal means by which the Office of Management and Budget is created is by re-designating the Bureau of the Budget as the Office of Management and Budget. The functions currently vested by law in the Bureau, or in its director, are transferred to the President, with the provision that he can then re-delegate them.

As soon as the reorganization plan takes effect, I intend to delegate those statutory functions to the Director of the new Office of Management and Budget, including those under section 212 of the Budget and Accounting Act, 1921.

However, creation of the Office of Management and Budget represents far more than a mere change of name for the Bureau of the Budget. It represents a basic change in concept and emphasis, reflecting the broader management needs of the Office of the President.

The new Office will still perform the key function of assisting the President in the preparation of the annual Federal budget and overseeing its execution. It will draw upon the skills and experience of the extraordinarily able and dedicated career staff developed by the Bureau of the Budget. But preparation of the budget as such will no longer be its dominant, overriding concern.

While the budget function remains a vital tool of management, it will be strengthened by the greater emphasis the new office will place on fiscal analysis. The budget function is only one of several important management tools that the President must now have. He must also have a substantially enhanced institutional staff capability in other areas of executive management—particularly in program evaluation and coordination, improvement of Executive Branch organization, information and management systems, and development of executive talent. Under this plan, strengthened capability in these areas will be provided partly through internal reorganization, and it will also require additional staff resources.

The new Office of Management and Budget will place much greater emphasis on the evaluation of program performance: on assessing the extent to which programs are actually achieving their intended results, and delivering the intended services to the intended recipients. This is needed on a continuing basis, not as a one-time effort. Program evaluation will remain a function of the individual agencies as it is today. However, a single agency cannot fairly be expected to judge overall effectiveness in programs that cross agency lines—and the difference between agency and Presidential perspectives requires a capacity in the Executive Office to evaluate program performance whenever appropriate.

The new Office will expand efforts to improve interagency cooperation in the field. Washington-based coordinators will help work out interagency problems at the operating level, and assist in developing efficient coordinating mechanisms throughout the country. The success of these efforts depends on the experience, persuasion and understanding of an Office which will be an expediter and catalyst. The Office will also respond to requests from State and local governments for assistance on intergovernmental programs. It will work closely with the Vice President and the Office of Intergovernmental Relations.

Improvement of Government organization, information and management systems will be a major function of the Office of Management and Budget. It will maintain a continuous review of the organizational structures and management processes of the Executive Branch, and recommend needed changes. It will take the lead in developing new information systems to provide the President with the performance and other data that he needs but does not now get. When new programs are launched, it will seek to ensure that they are not simply forced into or grafted onto existing organizational structures that may not be appropriate. Resistance to organizational change is one of the chief obstacles to effective government; the new Office will seek to ensure that organization keeps abreast of program needs.

The new Office will also take the lead in devising programs for the development of career executive talent throughout the Government. Not the least of the President's needs as Chief Executive is direct capability in the Executive Office for insuring that talented executives are used to the full extent of their abilities. Effective, coordinated efforts for executive manpower development have been hampered by the lack of a system for forecasting the needs for executive talent and appraising leadership potential. Both are crucial to the success of an enterprise—whether private or public.

The Office of Management and Budget will be charged with advising the President on the development of new programs to recruit, train, motivate, deploy, and evaluate the men and women who make up the top ranks of the civil service, in the broadest sense of that term. It will not deal with individuals, but will rely on the talented professionals of the Civil Service Commission and the Departments and agencies themselves to administer these programs. Under the leadership of the Office of Management and Budget there will be joint efforts to see to it that all executive talent is well utilized wherever it may be needed throughout the Executive Branch, and to assure that executive training and motivation meet not only today's needs but those of the years ahead.

Finally, the new Office will continue the Legislative Reference functions now performed by the Bureau of the Budget, drawing together agency reactions on all proposed legislation, and helping develop legislation to carry out the President's program. It also will continue the Bureau's work of improving and coordinating Federal statistical services.

SIGNIFICANCE OF THE CHANGES

The people deserve a more responsive and more effective Government. The times require it. These changes will help provide it.

Each reorganization included in the plan which accompanies this message is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. In particular, the plan is responsive to Section 901(a)(1), "to promote the better execution of the laws, the more effective management of the Executive Branch and of its agencies and functions, and the expeditious administration of the public business;" and Section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in this plan make necessary the appointment and compensation of new officers, as specified in Section 102(c) of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the Executive Branch who have similar responsibilities.

While this plan will result in a modest increase in direct expenditures, its strengthening of the Executive Office of the President will bring significant indirect savings, and at the same time will help ensure that people actually receive the return they deserve for every dollar the Government spends. The savings will result from the improved efficiency these changes will provide throughout the Executive Branch—and also from curtailing the waste that results when programs simply fail to achieve their objectives. It is not practical, however, to itemize or aggregate these indirect expenditure reductions which will result from the reorganization.

I expect to follow with other reorganization plans, quite possibly including ones that will affect other activities of the Executive Office of the President. Our studies are continuing. But this by itself is a reorganization of major significance, and a key to the more effective functioning of the entire Executive Branch.

These changes would provide an improved system of policy making and coordination, a strengthened capacity to perform those functions that are now the central concerns of the Bureau of the Budget, and a more effective set of management tools for the performance of other functions that have been rapidly increasing in importance.

The reorganization will not only improve the staff resources available to the President, but will also strengthen the advisory roles of those members of the Cabinet principally concerned with domestic affairs. By providing a means of formulation integrated and systematic recommendations on major domestic policy issues, the plan serves not only the needs of the President but also the interests of the Congress.

This reorganization plan is of major importance to the functioning of modern government. The national interest requires it. I urge that the Congress allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, March 12, 1970.

REORGANIZATION PLAN NO. 3 OF 1970

Eff. Dec. 2, 1970, 35 F.R. 15623, 84 Stat. 2086

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 9, 1970, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

ENVIRONMENTAL PROTECTION AGENCY

SECTION 1. ESTABLISHMENT OF AGENCY

(a) There is hereby established the Environmental Protection Agency, hereinafter referred to as the "Agency."

(b) There shall be at the head of the Agency the Administrator of the Environmental Protection Agency, hereinafter referred to as the "Administrator." The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).

(c) There shall be in the Agency a Deputy Administrator of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) There shall be in the Agency not to exceed five Assistant Administrators of the Environmental Protection Agency who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). Each Assistant Administrator shall perform such functions as the Administrator shall from time to time assign or delegate.

SEC. 2. TRANSFERS TO ENVIRONMENTAL PROTECTION AGENCY

(a) There are hereby transferred to the Administrator:

(1) All functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered through the Federal Water Quality Administration, all functions which were transferred

to the Secretary of the Interior by Reorganization Plan No. 2 of 1966 (80 Stat. 1608), and all functions vested in the Secretary of the Interior or the Department of the Interior by the Federal Water Pollution Control Act or by provisions of law amendatory or supplementary thereof.

(2)(i) The functions vested in the Secretary of the Interior by the Act of August 1, 1958, 72 Stat. 479, 16 U.S.C. 742d-1 (being an Act relating to studies on the effects of insecticides, herbicides, fungicides, and pesticides upon the fish and wildlife resources of the United States), and (ii) the functions vested by law in the Secretary of the Interior and the Department of the Interior which are administered by the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries at Gulf Breeze, Florida.

(3) The functions vested by law in the Secretary of Health, Education, and Welfare or in the Department of Health, Education, and Welfare which are administered through the Environmental Health Service, including the functions exercised by the following components thereof:

(i) The National Air Pollution Control Administration,

(ii) The Environmental Control Administration:

(A) Bureau of Solid Waste Management,

(B) Bureau of Water Hygiene,

(C) Bureau of Radiological Health,

except that functions carried out by the following components of the Environmental Control Administration of the Environmental Health Service are not transferred: (i) Bureau of Community Environmental Management, (ii) Bureau of Occupational Safety and Health, and (iii) Bureau of Radiological Health, insofar as the functions carried out by the latter Bureau pertain to (A) regulation of radiation from consumer products, including electronic product radiation, (B) radiation as used in the healing arts, (C) occupational exposures to radiation, and (D) research, technical assistance, and training related to clauses (A), (B), and (C).

(4) The functions vested in the Secretary of Health, Education, and Welfare of establishing tolerances for pesticide chemicals under the Federal Food, Drug, and Cosmetic Act, as amended, 21 U.S.C. 346, 346a, and 348, together with authority, in connection with the functions transferred, (i) to monitor compliance with the tolerances and the effectiveness of surveillance and enforcement, and (ii) to provide technical assistance to the States and conduct research under the Federal Food, Drug, and Cosmetic Act, as amended, and the Public Health Service Act, as amended.

(5) So much of the functions of the Council on Environmental Quality under section 204(5) of the National Environmental Policy Act of 1969 (Public Law 91-190 approved January 1, 1970, 83 Stat. 855), as pertains to ecological systems.

(6) The functions of the Atomic Energy Commission under the Atomic Energy Act of 1954, as amended, administered through its Division of Radiation Protection Standards, to the extent that such functions of the Commission consist of establishing generally applicable environmental standards for the protection of the general environment from radioactive material. As used herein, standards mean limits on radiation exposures or levels, or concentrations or quantities of radioactive material, in the general environment outside the boundaries of locations under the control of persons possessing or using radioactive material.

(7) All functions of the Federal Radiation Council (42 U.S.C. 2021(h)).

(8)(i) The functions of the Secretary of Agriculture and the Department of Agriculture under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (7 U.S.C. 135-135k), (ii) the functions of the Secretary of Agriculture and the Department of Agriculture under section 408(*l*) of the Federal Food, Drug, and Cosmetic Act, as amended (21 U.S.C. 346a(*l*)), and (iii) the functions vested by law in the Secretary of Agriculture and the Department of Agriculture which are administered through the Environmental Quality Branch of the Plant Protection Division of the Agricultural Research Service.

(9) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the performance by or under the Administrator of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Administrator made by this section shall be deemed to include the transfer of (1) authority, provided by law, to prescribe regulations relating primarily to the transferred functions, and (2) the functions vested in the Secretary of the Interior and the Secretary of Health, Education, and Welfare by section 169(d)(1)(B) and (3) of the Internal Revenue Code of 1954 (as enacted by section 704 of the Tax Reform Act of 1969, 83 Stat. 668); but shall be deemed to exclude the transfer of the functions of the Bureau of Reclamation under section 3(b)(1) of the Water Pollution Control Act (33 U.S.C. 466a(b)(1)).

(b) There are hereby transferred to the Agency:

(1) From the Department of the Interior, (i) the Water Pollution Control Advisory Board (33 U.S.C. 466f), together with its functions, and (ii) the hearing boards provided for in sections 10(c)(4) and 10(f) of the Federal Water Pollution Control Act, as amended (33 U.S.C. 466g(c)(4); 466g(f)). The functions of the Secretary of the Interior with respect to being or designating the Chairman of the Water Pollution Control Advisory Board are hereby transferred to the Administrator.

(2) From the Department of Health, Education, and Welfare, the Air Quality Advisory Board (42 U.S.C. 1857e), together with its functions. The functions of the Secretary of Health, Education, and Welfare with respect to being a member and the Chairman of that Board are hereby transferred to the Administrator.

Sec. 3. Performance of Transferred Functions

The Administrator may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this reorganization plan by any other officer, or by any organizational entity or employee, of the Agency.

Sec. 4. Incidental Transfers

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Administrator or the Agency by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Agency at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

Sec. 5. Interim Officers

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator, authorize any such person to act as Assistant Administrator, and authorize any such person to act as the head of any principal constituent organizational entity of the Administration.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves.

Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. ABOLITIONS

(a) Subject to the provisions of this reorganization plan, the following, exclusive of any functions, are hereby abolished:

(1) The Federal Water Quality Administration in the Department of the Interior (33 U.S.C. 466-1).

(2) The Federal Radiation Council (73 Stat. 690; 42 U.S.C. 2021(h)).

(b) Such provisions as may be necessary with respect to terminating any outstanding affairs shall be made by the Secretary of the Interior in the case of the Federal Water Quality Administration and by the Administrator of General Services in the case of the Federal Radiation Council.

SEC. 7. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect sixty days after the date they would take effect under 5 U.S.C. 906(a) in the absence of this section.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 3 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code and providing for an Environmental Protection Agency. My reasons for transmitting this plan are stated in a more extended accompanying message.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 3 of 1970 is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

Section 907 of title 5 of the United States Code will operate to preserve administrative proceedings, including any public hearing proceedings, related to the transferred functions, which are pending immediately prior to the taking effect of the reorganization plan.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

RICHARD NIXON.

THE WHITE HOUSE, July 9, 1970.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

As concern with the condition of our physical environment has intensified, it has become increasingly clear that we need to know more about the total environment—land, water and air. It also has become increasingly clear that only by reorganizing our Federal efforts can we develop that knowledge, and effectively ensure the protection, development and enhancement of the total environment itself.

The Government's environmentally-related activities have grown up piecemeal over the years. The time has come to organize them rationally and systematically. As a major step in this direction, I am transmitting today two reorganization plans: one to establish an Environmental Protection Agency, and one to establish, within the Department of Commerce, a National Oceanic and Atmospheric Administration.

ENVIRONMENTAL PROTECTION AGENCY (EPA)

Our national government today is not structured to make a coordinated attack on the pollutants which debase the air we breathe, the water we drink, and the land that grows our food. Indeed, the present governmental structure for dealing with environmental pollution often defies effective and concerted action.

Despite its complexity, for pollution control purposes the environment must be perceived as a single, interrelated system. Present assignments of departmental responsibilities do not reflect this interrelatedness.

Many agency missions, for example, are designed primarily along media lines—air, water, and land. Yet the sources of air, water, and land pollution are interrelated and often interchangeable. A single source may pollute the air with smoke and chemicals, the land with solid wastes, and a river or lake with chemical and other wastes. Control of the air pollution may produce more solid wastes, which then pollute the land or water. Control of the water-polluting effluent may convert it into solid wastes, which must be disposed of on land.

Similarly, some pollutants—chemicals, radiation, pesticides—appear in all media. Successful control of them at present requires the coordinated efforts of a variety of separate agencies and departments. The results are not always successful.

A far more effective approach to pollution control would:

—Identify pollutants.

—Trace them through the entire ecological chain, observing and recording changes in form as they occur.

—Determine the total exposure of man and his environment.

—Examine interactions among forms of pollution.

—Identify where in the ecological chain interdiction would be most appropriate.

In organizational terms, this requires pulling together into one agency a variety of research, monitoring, standard-setting and enforcement activities now scattered through several departments and agencies. It also requires that the new agency include sufficient support elements—in research and in aids to State and local anti-pollution programs, for example—to give it the needed strength and potential for carrying out its mission. The new agency would also, of course, draw upon the results of research conducted by other agencies.

COMPONENTS OF THE EPA

Under the terms of Reorganization Plan No. 3, the following would be moved to the new Environmental Protection Agency:

—The functions carried out by the Federal Water Quality Administration (from the Department of the Interior).

—Functions with respect to pesticides studies now vested in the Department of the Interior.

—The functions carried out by the National Air Pollution Control Administration (from the Department of Health, Education, and Welfare).

—The functions carried out by the Bureau of Solid Waste Management and the Bureau of Water Hygiene, and portions of the functions carried out by the Bureau of Radiological Health of the Environmental Control Administration (from the Department of Health, Education, and Welfare).

—Certain functions with respect to pesticides carried out by the Food and Drug Administration (from the Department of Health, Education, and Welfare).

—Authority to perform studies relating to ecological system now vested in the Council on Environmental Quality.

—Certain functions respecting radiation criteria and standards now vested in the Atomic Energy Commission and the Federal Radiation Council.

—Functions respecting pesticides registration and related activities now carried out by the Agricultural

Research Service (from the Department of Agriculture).

With its broad mandate, EPA would also develop competence in areas of environmental protection that have not previously been given enough attention, such, for example, as the problem of noise, and it would provide an organization to which new programs in these areas could be added.

In brief, these are the principal functions to be transferred:

Federal Water Quality Administration.—Charged with the control of pollutants which impair water quality, it is broadly concerned with the impact of degraded water quality. It performs a wide variety of functions, including research, standard-setting and enforcement, and provides construction grants and technical assistance.

Certain pesticides research authority from the Department of the Interior.—Authority for research on the effects of pesticides on fish and wildlife would be provided to the EPA through transfer of the specialized research authority of the pesticides act enacted in 1958. Interior would retain its responsibility to do research on all factors affecting fish and wildlife. Under this provision, only one laboratory would be transferred to the EPA—the Gulf Breeze Biological Laboratory of the Bureau of Commercial Fisheries. The EPA would work closely with the fish and wildlife laboratories remaining with the Bureau of Sport Fisheries and Wildlife.

National Air Pollution Control Administration.—As the principal Federal agency concerned with air pollution, it conducts research on the effects of air pollution, operates a monitoring network, and promulgates criteria which serve as the basis for setting air quality standards. Its regulatory functions are similar to those of the Federal Water Quality Administration. NAPCA is responsible for administering the Clean Air Act, which involves designating air quality regions, approving State standards, and providing financial and technical assistance to State Control agencies to enable them to comply with the Act's provisions. It also sets and enforces Federal automotive emission standards.

Elements of the Environmental Control Administration.—ECA is the focal point within HEW for evaluation and control of a broad range of environmental health problems, including water quality, solid wastes, and radiation. Programs in the ECA involve research, development of criteria and standards, and the administration of planning and demonstration grants. From the ECA, the activities of the Bureaus of Water Hygiene and Solid Waste Management and portions of the activities of the Bureau of Radiological Health would be transferred. Other functions of the ECA including those related to the regulation of radiation from consumer products and occupational safety and health would remain in HEW.

Pesticides research and standard-setting programs of the Food and Drug Administration.—FDA's pesticides program consists of setting and enforcing standards which limit pesticide residues in food. EPA would have the authority to set pesticide standards and to monitor compliance with them, as well as to conduct related research. However, as an integral part of its food protection activities, FDA, would retain its authority to remove from the market food with excess pesticide residues.

General ecological research from the Council on Environmental Quality.—This authority to perform studies and research relating to ecological systems would be in addition to EPA's other specific research authorities, and it would help EPA to measure the impact of pollutants. The Council on Environmental Quality would retain its authority to conduct studies and research relating to environmental quality.

Environmental radiation standards programs.—The Atomic Energy Commission is now responsible for establishing environmental radiation standards and emission limits for radioactivity. Those standards have been based largely on broad guidelines recommended by the Federal Radiation Council. The Atomic Energy Commission's authority to set standards for the protection of the general environment from radioactive material would be transferred to the Environmental Protection Agency. The functions of the Federal Radiation Council would also be transferred. AEC would retain responsibility for the implementation and enforcement of radiation standards through its licensing authority.

Pesticides registration program of the Agricultural Research Service.—The Department of Agriculture is currently responsible for several distinct functions related to pesticides use. It conducts research on the efficacy of various pesticides as related to other pest control methods and on the effects of pesticides on non-target plants, livestock, and poultry. It registers pesticides, monitors their persistence and carries out an educational program on pesticide use through the extension service. It conducts extensive pest control programs which utilize pesticides.

By transferring the Department of Agriculture's pesticides registration and monitoring function to the EPA and merging it with the pesticides programs being transferred from HEW and Interior, the new agency would be given a broad capability for control over the introduction of pesticides into the environment.

The Department of Agriculture would continue to conduct research on the effectiveness of pesticides. The Department would furnish this information to the EPA, which would have the responsibility for actually licensing pesticides for use after considering environmental and health effects. Thus the new agency would be able to make use of the expertise of the Department.

ADVANTAGES OF REORGANIZATION

This reorganization would permit response to environmental problems in a manner beyond the previous capability of our pollution control programs. The EPA would have the capacity to do research on important pollutants irrespective of the media in which they appear, and on the impact of these pollutants on the total environment. Both by itself and together with other agencies, the EPA would monitor the condition of the environment—biological as well as physical. With these data, the EPA would be able to establish quantitative "environmental baselines"—critical if we are to measure adequately the success or failure of our pollution abatement efforts.

As no disjointed array of separate programs can, the EPA would be able—in concert with the States—to set and enforce standards for air and water quality and for individual pollutants. This consolidation of pollution control authorities would help assure that we do not create new environmental problems in the process of controlling existing ones. Industries seeking to minimize the adverse impact of their activities on the environment would be assured of consistent standards covering the full range of their waste disposal problems. As the States develop and expand their own pollution control programs, they would be able to look to one agency to support their efforts with financial and technical assistance and training.

In proposing that the Environmental Protection Agency be set up as a separate new agency, I am making an exception to one of my own principles: that, as a matter of effective and orderly administration, additional new independent agencies normally should not be created. In this case, however, the arguments against placing environmental protection activities under the jurisdiction of one or another of the existing departments and agencies are compelling.

In the first place, almost every part of government is concerned with the environment in some way, and affects it in some way. Yet each department also has its own primary mission—such as resource development, transportation, health, defense, urban growth or agriculture—which necessarily affects its own view of environmental questions.

In the second place, if the critical standard-setting functions were centralized within any one existing department, it would require that department constantly to make decisions affecting other departments—in which, whether fairly or unfairly, its own objectivity as an impartial arbiter could be called into question.

Because environmental protection cuts across so many jurisdictions, and because arresting environmental deterioration is of great importance to the quality of life in our country and the world, I believe that in this case a strong, independent agency is needed. That agency would, of course, work closely with and draw upon the expertise and assistance of other agencies having experience in the environmental area.

ROLES AND FUNCTIONS OF EPA

The principal roles and functions of the EPA would include:

—The establishment and enforcement of environmental protection standards consistent with national environmental goals.

—The conduct of research on the adverse effects of pollution and on methods and equipment for controlling it, the gathering of information on pollution, and the use of this information in strengthening environmental protection programs and recommending policy changes.

—Assisting others, through grants, technical assistance and other means in arresting pollution of the environment.

—Assisting the Council on Environmental Quality in developing and recommending to the President new policies for the protection of the environment.

One natural question concerns the relationship between the EPA and the Council on Environmental Quality, recently established by Act of Congress.

It is my intention and expectation that the two will work in close harmony, reinforcing each other's mission. Essentially, the Council is a top-level advisory group which might be compared with the Council of Economic Advisers), while the EPA would be an operating, "line" organization. The Council will continue to be a part of the Executive Office of the President and will perform its overall coordinating and advisory roles with respect to all Federal programs related to environmental quality.

The Council, then, is concerned with all aspects of environmental quality—wildlife preservation, parklands, land use, and population growth, as well as pollution. The EPA would be charged with protecting the environment by abating pollution. In short, the Council focuses on what our broad policies in the environmental field should be; the EPA would focus on setting and enforcing pollution control standards. The two are not competing, but complementary—and taken together, they should give us, for the first time, the means to mount an effectively coordinated campaign against environmental degradation in all of its many forms.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

The oceans and the atmosphere are interacting parts of the total environmental system upon which we depend not only for the quality of our lives, but for life itself.

We face immediate and compelling needs for better protection of life and property from natural hazards, and for a better understanding of the total environment—an understanding which will enable us more effectively to monitor and predict its actions, and ultimately, perhaps to exercise some degree of control over them.

We also face a compelling need for exploration and development leading to the intelligent use of our marine resources. The global oceans, which constitute nearly three-fourths of the surface of our planet, are today the least-understood, the least-developed, and the least-protected part of our earth. Food from the oceans will increasingly be a key element in the world's fight against hunger. The mineral resources of the ocean beds and of the oceans themselves, are being increasingly tapped to meet the growing world demand. We must understand the nature of these resources, and assure their development without either contaminating the marine environment or upsetting its balance.

Establishment of the National Oceanic and Atmospheric Administration—NOAA—within the Department of Commerce would enable us to approach these tasks in a coordinated way. By employing a unified approach to the problems of the oceans and atmosphere, we can increase our knowledge and expand our opportunities not only in those areas, but in the third major component of our environment, the solid earth, as well.

Scattered through various Federal departments and agencies, we already have the scientific, technological, and administrative resources to make an effective, unified approach possible. What we need is to bring them together. Establishment of NOAA would do so.

By far the largest of the components being merged would be the Commerce Department's Environmental Science Services Administration (ESSA), with some 10,000 employees (70 percent of NOAA's total personnel strength) and estimated Fiscal 1970 expenditures of almost $200 million. Placing NOAA within the Department of Commerce therefore entails the least dislocation, while also placing it within a department which has traditionally been a center for service activities in the scientific and technological area.

COMPONENTS OF NOAA

Under terms of Reorganization Plan No. 4, the programs of the following organizations would be moved into NOAA:

—The Environmental Science Services Administration (from within the Department of Commerce).

—Elements of the Bureau of Commercial Fisheries (from the Department of the Interior).

—The marine sport fish program of the Bureau of Sport Fisheries and Wildlife (from the Department of the Interior).

—The Marine Minerals Technology Center of the Bureau of Mines (from the Department of the Interior).

—The Office of Sea Grant Programs (from the National Science Foundation).

—Elements of the U.S. Lake Survey (from the Department of the Army).

In addition, by executive action, the programs of the following organizations would be transferred to NOAA:

—The National Oceanographic Data Center (from the Department of the Navy).

—The National Oceanographic Instrumentation Center (from the Department of the Navy).

—The National Data Buoy Project (from the Department of Transportation).

In brief, these are the principal functions of the programs and agencies to be combined:

THE ENVIRONMENTAL SCIENCE SERVICES ADMINISTRATION

(ESSA) comprises the following components:

—The Weather Bureau (weather, marine, river and flood forecasting and warning).

—The Coast and Geodetic Survey (earth and marine description, mapping and charting).

—The Environmental Data Service (storage and retrieval of environmental data).

—The National Environmental Satellite Center (observation of the global environment from earth-orbiting satellites).

—The ESSA Research Laboratories (research on physical environmental problems).

ESSA's activities include observing and predicting the state of the oceans, the state of the lower and upper atmosphere, and the size and shape of the earth. It maintains the nation's warning systems for such natural hazards as hurricanes, tornadoes, floods, earthquakes and seismic sea waves. It provides information for national defense, agriculture, transportation and industry.

ESSA monitors atmospheric, oceanic and geophysical phenomena on a global basis, through an unparalleled complex of air, ocean, earth and space facilities. It also prepares aeronautical and marine maps and charts.

Bureau of Commercial Fisheries and marine sport fish activities.—Those fishery activities of the Department of the Interior's U.S. Fish and Wildlife Service which are ocean related and those which are directed toward commercial fishing would be transferred. The Fish and Wildlife Service's Bureau of Commercial Fisheries has the dual function of strengthening the fishing industry and promoting conservation of fishery stocks. It conducts research on important marine species and on fundamental oceanography, and operates a fleet of oceanographic vessels and a number of laboratories. Most of its activities would be transferred. From the Fish and Wildlife Service's Bureau of Sport Fisheries and Wildlife, the marine sport fishing program would be transferred. This involves five supporting laboratories and three ships engaged in activities to enhance marine sport fishing opportunities.

The Marine Minerals Technology Center is concerned with the development of marine mining technology.

Office of Sea Grant Programs.—The Sea Grant Program was authorized in 1966 to permit the Federal Government to assist the academic and industrial communities in developing marine resources and technology. It aims at strengthening education and training of marine specialists, supporting applied research in the recovery and use of marine resources, and developing extension and advisory services. The Office carries out these objectives by making grants to selected academic institutions.

The U.S. Lake Survey has two primary missions. It prepares and publishes navigation charts of the Great Lakes and tributary waters and conducts research on a variety of hydraulic and hydrologic phenomena of the Great Lakes' waters. Its activities are very similar to those conducted along the Atlantic and Pacific coasts by ESSA's Coast and Geodetic Survey.

The National Oceanographic Data Center is responsible for the collection and dissemenation of oceanographic data accumulated by all Federal agencies.

The National Oceanographic Instrumentation Center provides a central Federal service for the calibration and testing of oceanographic instruments.

The National Data Buoy Development Project was established to determine the feasibility of deploying a system of automatic ocean buoys to obtain oceanic and atmospheric data.

ROLE OF NOAA

Drawing these activities together into a single agency would make possible a balanced Federal program to improve our understanding of the resources of the sea, and permit their development and use while guarding against the sort of thoughtless exploitation that in the past laid waste to so many of our precious natural assets. It would make possible a consolidated program for achieving a more comprehensive understanding of oceanic and atmospheric phenomena, which so greatly affect our lives and activities. It would facilitate the cooperation between public and private interests that can best serve the interests of all.

I expect that NOAA would exercise leadership in developing a national oceanic and atmospheric program of research and development. It would coordinate its own scientific and technical resources with the technical and operational capabilities of other government agencies and private institutions. As important, NOAA would continue to provide those services to other agencies of government, industry and private individuals which have become essential to the efficient operation of our transportation systems, our agriculture and our national security. I expect it to maintain continuing and close liaison with the new Environmental Protection Agency and the Council on Environmental Quality as part of an effort to ensure that environmental questions are dealt with in their totality and that they benefit from the full range of the government's technical and human resources.

Authorities who have studied this matter, including the Commission on Marine Science, Engineering and Resources, strongly recommended the creation of a National Advisory Committee for the Oceans. I agree. Consequently, I will request, upon approval of the plan, that the Secretary of Commerce establish a National Advisory Committee for the Oceans and the Atmosphere to advise him on the progress of governmental and private programs in achieving the nation's oceanic and atmospheric objectives.

AN ON-GOING PROCESS

The reorganizations which I am here proposing afford both the Congress and the Executive Branch an opportunity to re-evaluate the adequacy of existing program authorities involved in these consolidations. As these two new organizations come into being, we may well find that supplementary legislation to perfect their authorities will be necessary. I look forward to working with the Congress in this task.

In formulating these reorganization plans, I have been greatly aided by the work of the President's Advisory Council on Executive Organization (the Ash Council), the Commission on Marine Science, Engineering and Resources (the Stratton Commission, appointed by President Johnson), my special task force on oceanography headed by Dr. James Wakelin, and by the information developed during both House and Senate hearings on proposed NOAA legislation.

Many of those who have advised me have proposed additional reorganizations, and it may well be that in the future I shall recommend further changes. For the present, however, I think the two reorganizations transmitted today represent a sound and significant beginning. I also think that in practical terms, in this sensitive and rapidly developing area, it is better to proceed a step at a time—and thus to be sure that we are not caught up in a form of organizational indigestion from trying to rearrange too much at once. As we see how these changes work out, we will gain a better understanding of what further changes—in addition to these—might be desirable.

Ultimately, our objective should be to insure that the nation's environmental and resource protection activities are so organized as to maximize both the effective coordination of all and the effective functioning of each.

The Congress, the Administration and the public all share a profound commitment to the rescue of our natural environment, and the preservation of the Earth as a place both habitable by and hospitable to man. With its acceptance of these reorganization plans, the Congress will help us fulfill that commitment.

RICHARD NIXON.

THE WHITE HOUSE, July 9, 1970.

REORGANIZATION PLAN NO. 4 OF 1970

Eff. Oct. 3, 1970, 35 F.R. 15627, 84 Stat. 2090, as amended Oct. 8, 1976, Pub. L. 94-461, § 4(c)(1), 90 Stat. 1969.

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, July 9, 1970, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SECTION 1. TRANSFERS TO SECRETARY OF COMMERCE

The following are hereby transferred to the Secretary of Commerce:

(a) All functions vested by law in the Bureau of Commercial Fisheries of the Department of the Interior or in its head, together with all functions vested by law in the Secretary of the Interior or the Department of the Interior which are administered through that

Bureau or are primarily related to the Bureau, exclusive of functions with respect to (1) Great Lakes fishery research and activities related to the Great Lakes Fisheries Commission, (2) Missouri River Reservoir research, (3) the Gulf Breeze Biological Laboratory of the said Bureau at Gulf Breeze, Florida, and (4) Trans-Alaska pipeline investigations.

(b) The functions vested in the Secretary of the Interior by the Act of September 22, 1959 (Public Law 86-359, 73 Stat. 642, 16 U.S.C. 760e–760g; relating to migratory marine species of game fish).

(c) The functions vested by law in the Secretary of the Interior, or in the Department of the Interior or in any officer or instrumentality of that Department, which are administered through the Marine Minerals Technology Center of the Bureau of Mines.

(d) All functions vested in the National Science Foundation by the National Sea Grant College and Program Act of 1966 (80 Stat. 998), as amended (33 U.S.C. 1121 et seq.).

(e) Those functions vested in the Secretary of Defense or in any officer, employee, or organizational entity of the Department of Defense by the provision of Public Law 91-144, 83 Stat. 326, under the heading "Operation and maintenance, general" with respect to "surveys and charting of northern and northwestern lakes and connecting waters," or by other law, which come under the mission assigned as of July 1, 1969, to the United States Army Engineer District, Lake Survey, Corps of Engineers, Department of the Army and relate to (1) the conduct of hydrographic surveys of the Great Lakes and their outflow rivers, Lake Champlain, New York State Barge Canals, and the Minnesota-Ontario border lakes, and the compilation and publication of navigation charts, including recreational aspects, and the Great Lakes Pilot for the benefit and use of the public, (2) the conception, planning, and conduct of basic research and development in the fields of water motion, water characteristics, water quantity, and ice and snow, and (3) the publication of data and the results of research projects in forms useful to the Corps of Engineers and the public, and the operation of a Regional Data Center for the collection, coordination, analysis, and the furnishing to interested agencies of data relating to water resources of the Great Lakes.

(f) So much of the functions of the transferor officers and agencies referred to in or affected by the foregoing provisions of this section as is incidental to or necessary for the performance by or under the Secretary of Commerce of the functions transferred by those provisions or relates primarily to those functions. The transfers to the Secretary of Commerce made by this section shall be deemed to include the transfer of authority, provided by law, to prescribe regulations relating primarily to the transferred functions.

Sec. 2. Establishment of Administration

(a) There is hereby established in the Department of Commerce an agency which shall be known as the National Oceanic and Atmospheric Administration, hereinafter referred to as the "Administration."

(b) There shall be at the head of the Administration the Administrator of the National Oceanic and Atmospheric Administration, hereinafter referred to as the "Administrator." The Administrator shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level III of the Executive Schedule Pay Rates (5 U.S.C. 5314).

(c) There shall be in the Administration a Deputy Administrator of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Deputy Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

(d) There shall be in the Administration an Associate Administrator of the National Oceanic and Atmospheric Administration who shall be appointed by the President, by and with the advice and consent of the Senate, and shall be compensated at the rate now or hereafter provided for Level IV of the Executive Schedule Pay Rates (5 U.S.C. 5315). The Associate Administrator shall perform such functions as the Administrator shall from time to time assign or delegate, and shall act as Administrator during the absence or disability of the Administrator and Deputy Administrator. The office of Associate Administrator may be filled at the discretion of the President by appointment (by and with the advice and consent of the Senate) from the active list of commissioned officers of the Administration in which case the appointment shall create a vacancy on the active list and while holding the office of Associate Administrator the officer shall have rank, pay, and allowances not exceeding those of a vice admiral. [As amended Pub. L. 94-461, § 4(c)(1), Oct. 8, 1976, 90 Stat. 1969.]

(e) There shall be in the Administration three additional officers who shall perform such functions as the Administrator shall from time to time assign or delegate. Each such officer shall be appointed by the Secretary, subject to the approval of the President, under the classified civil service, shall have such title as the Secretary shall from time to time determine, and shall receive compensation at the rate now or hereafter provided for Level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(f) The President may appoint in the Administration, by and with the advice and consent of the Senate, two commissioned officers to serve at any one time as the designated heads of two principal constituent organizational entities of the Administration, or the President may designate one such officer as the head of such an organizational entity and the other as head of the commissioned corps of the Administration. Any such designation shall create a vacancy on the active list and the officer while serving under this subsection shall have the rank, pay, and allowances of a rear admiral (upper half).

(g) Any commissioned officer of the Administration who has served under (d) or (f) and is retired while so serving or is retired after the completion of such service while serving in a lower rank or grade, shall be retired with the rank, pay, and allowances authorized by law for the highest grade and rank held by him; but any such officer, upon termination of his appointment in a rank above that of captain, shall, unless appointed or assigned to some other position for which a higher rank or grade is provided, revert to the grade and number he would have occupied had he not served in a rank above that of captain and such officer shall be an extra number in that grade.

Sec. 3. Performance of Transferred Functions

The provisions of sections 2 and 4 of Reorganization Plan No. 5 of 1950 (64 Stat. 1263) shall be applicable to the functions transferred hereunder to the Secretary of Commerce.

Sec. 4. Incidental Transfers

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred to the Secretary of Commerce by this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Commerce at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

(c) The personnel, property, records, and unexpended balances of appropriations, allocations, and other funds of the Environmental Science Services Administration shall become personnel, property, records, and unexpended balances of the National Oceanic and Atmospheric Administration or of such other organizational entity or entities of the Department of Commerce as the Secretary of Commerce shall determine.

(d) The Commissioned Officer Corps of the Environmental Science Services Administration shall become the Commissioned Officer Corps of the National Oceanic and Atmospheric Administration. Members of the Corps, including those appointed hereafter, shall be entitled to all rights, privileges, and benefits heretofore available under any law to commissioned officers of the Environmental Science Services Administration, including those rights, privileges, and benefits heretofore accorded by law to commissioned officers of the former Coast and Geodetic Survey.

(e) Any personnel, property, records, and unexpended balances of appropriations, allocations, and other funds of the Bureau of Commercial Fisheries not otherwise transferred shall become personnel, property, records, and unexpended balances of such organizational entity or entities of the Department of the Interior as the Secretary of the Interior shall determine.

Sec. 5. Interim Officers

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator and authorize any such person to act as Associate Administrator.

(c) The President may similarly authorize a member of the former Commissioned Officer Corps of the Environmental Science Services Administration to act as the head of one principal constituent organizational entity of the Administration.

(d) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

Sec. 6. Abolitions

(a) Subject to the provisions of this reorganization plan, the following, exclusive of any functions, are hereby abolished:

(1) The Environmental Science Services Administration in the Department of Commerce (established by Reorganization Plan No. 2 of 1965, 79 Stat. 1318), including the offices of Administrator of the Environmental Science Administration and Deputy Administrator of the Environmental Science Services Administration.

(2) The Bureau of Commercial Fisheries in the Department of the Interior (16 U.S.C. 742b), including the office of Director of the Bureau of Commercial Fisheries.

(b) Such provisions as may be necessary with respect to terminating any outstanding affairs shall be made by the Secretary of Commerce in the case of the Environmental Science Services Administration and by the Secretary of the Interior in the case of the Bureau of Commercial Fisheries.

Message of the President

To the Congress of the United States:

I transmit herewith Reorganization Plan No. 4 of 1970, prepared in accordance with chapter 9 of title 5 of the United States Code. The plan would transfer to the Secretary of Commerce various functions relating to the oceans and atmosphere, including commercial fishery functions, and would establish a National Oceanic and Atmospheric Administration in the Department of Commerce. My reasons for transmitting this plan are stated in a more extended accompanying message.

After investigation, I have found and hereby declare that each reorganization included in Reorganization Plan No. 4 of 1970 is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3) "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 2 of the plan. The rates of compensation fixed for these officers are comparable to those fixed for other officers in the executive branch who have similar responsibilities.

The reorganization plan should result in the more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which will result from this action.

Richard Nixon.

The White House, July 9, 1970.

REORGANIZATION PLAN NO. 1 OF 1971

Eff. July 1, 1971, 36 F.R. 11181, 85 Stat. 819

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 24, 1971, pursuant to the provisions of chapter 9 of title 5 of the United States Code.

REORGANIZATION OF CERTAIN VOLUNTEER PROGRAMS

Section 1. Establishment of Agency

[Superseded. Pub. L. 93-113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Section established the "Action" Agency and is now covered by section 5041 of Title 42.]

Sec. 2. Transfer of Functions

(a) [Superseded. Pub. L. 93-113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Subsec. (a) transferred to the Director of Action the functions of the Director of the Office of Economic Opportunity under sections 2991 to 2994d of Title 42, the functions of the Secretary of Health, Education, and Welfare under sections 3044 to 3044e of Title 42, the functions of the Small Business Administration under section 637(b) of Title 15, and other functions incidental to or necessary for the performance of the foregoing functions, including functions conferred upon the Director of the Office of Economic Opportunity by section 2941 of Title 42. Subject matter is now covered by section 4951 et seq. and provisions set out as a note under section 5041 of Title 42.]

(b) The function conferred upon the Director of the Peace Corps by section 4(c)(4) of the Peace Corps Act, as amended (22 U.S.C. 2503(c)(4)), is hereby transferred to the President of the United States.

Sec. 3. Performance of Transferred Functions

[Superseded. Pub. L. 93-113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Section related to performance of transferred functions.]

Sec. 4. Incidental Transfers

[Superseded. Pub. L. 93-113, title VI, § 601(a), Oct. 1, 1973, 87 Stat. 416. Section related to incidental transfers.]

Sec. 5. Interim Officers

(a) The President may authorize any person who immediately prior to the effective date of this reorganization plan held a position in the executive branch of the Government to act as Director of Action until the office of Director is for the first time filled pursuant to the provisions of this reorganization plan or by recess appointment, as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Director, authorize any such person to act as Associate Director, and authorize any such person to act as the head of any principal constituent organizational entity of Action.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect of which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 6. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1971, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

America is a nation unique in the political history of the world. More than any other nation, it is the sum of the energies and efforts of all of its people. The American tradition of voluntary involvement—of freely committing one's time and talents in the search for civic improvement and social progress—gives an extra dimension to the meaning of democracy. In the past decade the Federal Govenment has built on this tradition by developing channels for joining the spirit of voluntary citizen service in America with public needs, both domestically and abroad. Many of these efforts have had marked success. But the circumstances in which these efforts were conceived have changed.

National and international needs have altered. The opportunities for voluntary service must be adapted and improved to meet these new needs.

Recognizing that private channels of voluntary action are a vital source of strength in our national life, I have supported the establishment and development of the National Center for Voluntary Action. The National Center is a private, non-profit partner in the effort to generate and encourage volunteer service. The Center works to promote the establishment of local Voluntary Action Centers, as well as to assist in the expansion of voluntary action organizations already in existence. It stimulates voluntary action by providing information on successful voluntary efforts, and it assists in directing those who wish to volunteer services to areas and endeavors in which their services are needed.

The National Center for Voluntary Action is functioning now to fill a vital need in the private voluntary sector. Now we must turn our attention to bringing government volunteer programs into line with new national priorities and new opportunities for meeting those priorities. We must take full advantage of the lessons of the past decade, and we must build on the experience of that period if we are to realize the full potential of voluntary citizen service. This is no longer a matter of choice. We cannot afford to misuse or ignore the considerable talents and energies of our people. In the coming years, the continued progress of our society is going to depend increasingly upon the willingness of more Americans to participate in voluntary service and upon our ability to channel their service effectively.

One matter of consequence to the problems of properly channeling volunteer services and expanding government's role in the development of volunteer resources is the proliferation of government volunteer programs. It was perhaps inevitable that these programs would be generated almost at random across the spectrum of governmnent concern for human needs. This occurred in a period when the Federal Government was still attempting to define its relationship with, and its purposes in, the area of voluntary service. Now the role of government has been confirmed and its responsibilities and obligations are clear. Meeting these responsibilities and obligations will be a long, difficult, and challenging adventure. But it is an adventure we can look to with excitement and with the knowledge that the only sure source of failure can be a failure of the will of the American people. I do not believe it will fail.

The foundation for a greatly expanded government contribution to volunteer service already exists. Now we must consolidate that foundation in order to build on it. To accomplish this, I propose a reorganization of the present volunteer service system. Accordingly, I herewith transmit to the Congress Reorganization Plan No. 1 of 1971, prepared in accordance with chapter 9 of title 5 of the United States Code. Reorganization would bring together within a single agency a number of voluntary action programs presently scattered throughout the executive branch of the Federal Government. The new agency would be called Action.

COMPOSITION

Under the reorganization plan Action would administer the functions of the following programs:

—Volunteers in Service to America: VISTA volunteers work in domestic poverty areas to help the poor break the poverty cycle.

—Auxiliary and Special Volunteer Programs in the Office of Economic Opportunity: At present the National Student Volunteer Program is administered under this authority. This program stimulates student voluntary action programs which deal with the problems of the poor.

—Foster Grandparents: This program provides opportunities for the elderly poor to assist needy children.

—Retired Senior Volunteer Program: RSVP provides opportunities for retired persons to perform voluntary services in their communities.

—Service Corps of Retired Executives: SCORE provides opportunities for retired businessmen to assist in the development of small businesses.

—Active Corps of Executives: ACE provides opportunities for working businessmen to assist in the development of small businesses.

After investigation I have found and hereby declare that each reorganization included in the accompanying reorganization plan is necessary to accomplish one or more of the purposes set forth in section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to section 901(a)(1), "to promote the better execution of the laws, the more effective management of the executive branch and of its agencies and functions, and the expeditious administration of the public business;" and section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable."

The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in section 1 of the plan. The rates of compensation fixed for these officers would be comparable to those fixed for officers in the executive branch who have similar responsibilities.

The reorganization plan should result in more efficient operation of the Government. It is not practical, however, to itemize or aggregate the exact expenditure reductions which would result from this action.

Upon the establishment of Action, I would delegate to it the principal authority for the Peace Corps now vested in me as President and delegated to the Secretary of State. In addition, the function of the Office of Voluntary Action, now operating in the Department of Housing and Urban Development, would be transferred to the new agency by executive action.

Finally, I will submit legislation which would include the transfer of the functions of the Teacher Corps from the Department of Health, Education, and Welfare to the new agency. This legislation would expand authority to develop new uses of volunteer talents, it would provide a citizens' advisory board to work with the director of the new agency, and it would provide authority to match private contributions.

GOALS

Although reorganization is only a step, it is the essential first step toward the goal of a system of volunteer service which uses to the fullest advantages the power of all the American people to serve the purposes of the American nation.

In pursuing this goal the new agency would, first, expand the testing and development of innovations in voluntary actions. Health services, housing the environment, educational development, manpower and community planning are just a few of the areas in which we would act to accomplish more through voluntary service, and I intend to ask for additional funds and additional authority for Action to explore new approaches to these and other problems.

In the future, we are going to have to find new ways for more people to fulfill themselves and to lead satisfying and productive lives. The problems are of concern even now, but they must be put in perspective quickly because they will soon be upon us. I believe at least some of the answers will be found in volunteer service. Action would work to find those answers and apply them.

Second, there are many Americans who want to contribute to our national life through voluntary citizen service, but who cannot serve full time. Their contributions must not be wasted. Volunteers in full-time service would work with part-time volunteers and the new agency would develop and provide opportunities for more people to give part-time service.

Third, Action would bring together in one place programs which appeal predominantly to younger Americans with those that appeal to older Americans, and would work to bring the energy, the innovative spirit, the experience, and the skills of each to bear on specific problems. The generations in America share America's problems—they must share in the search for solutions so that we all may share in the benefits of our solutions.

Fourth, Action would develop programs for combining foreign service with domestic service to accommodate volunteers interested in such an opportunity. I believe that young people in particular would be interested in the chance for this experience and would greatly benefit from it. I know there would be great value, for example, in permitting those who have served the needs of the poor abroad to turn their skills and experience to helping the poor at home, and vice versa. In addition, if volunteers are to reap the full benefit of serving, and if they are to be able to provide others the full benefit of their service, then we must open the doors to a fuller exchange of ideas and experiences between overseas and domestic volunteer efforts. These exchanges would considerably enhance the value of the experience gained in these endeavors by broadening the areas in which that experience is applied.

Fifth, at the present time valuable professional skills offered in voluntary service are too frequently limited by narrow categorical programs when their broader application is urgently needed. For example, the contributions of businessmen made through SCORE and ACE are provided only through the Small Business Administration. We know that the skills of business can be used in many areas where they are not used presently. Action would open new channels for service and would permit a more extensive utilization of business and other vocational and professional abilities.

Finally, by centralizing administrative functions of the volunteer services, the new agency would provide a more effective system of recruitment, training, and placement of full-time volunteers than the present circumstances permit. It would provide a single source of information and assistance for those who seek to volunteer full-time service. And it would permit more effective management of services than is currently possible in the administration of volunteer programs, as well as the more efficient use of resources.

PRINCIPLES

In restructuring our system of volunteer services, we can accomplish the goals which I have set forth. But we must do more than this. We must restructure our thinking about volunteer services. We must determine how to use our volunteer resources to accomplish more than they accomplish now. We need an increased effort to stimulate broader volunteer service, to involve more volunteers, and to involve them not simply as foot-soldiers in massive enterprises directed from the top, but in those often small and local efforts that show immediate results, that give immediate satisfaction—those efforts that return to citizens a sense of having a hand in the business of building America. Part of our rethinking of this matter must look to the past so that we may properly meet the needs of the present and prepare for the possibilities of the future.

Volunteer service in poverty areas is a case in point. We already have considerable experience in dealing with the problems of poverty through the use of volunteers. Now we must build upon this experience and find new ways to use more effectively the volunteers presently serving in poverty areas, as well as in all other areas, and to stimulate new programs so that additional numbers of volunteers can assist in the solution of community and national problems.

In line with this effort to build on what we have learned. Action would function with particular concern for these basic principles:

—It would encourage local initiative, and would support local programs to solve local problems.

—Where appropriate, the new agency would assign volunteers to assist, and work under the technical supervision of other Federal agencies, State and local agencies or organizations, and private sponsors.

—The services of local part-time volunteers would be sought and supported in the effort to accomplish specific jobs. They would be assisted, when necessary, by full-time volunteers.

—Universities and colleges, State, city and private organizations must be engaged in the effort to broaden opportunities for volunteer service and under the new agency they would be assisted in these efforts.

—Finally, to meet the increasing need for skilled volunteers, Action would give increased emphasis to recruiting and applying the skills of trained craftsmen and professional workers.

FUNDING

To insure that the new agency has financial resources to begin working toward the goals I have outlined, I will seek for this agency an additional $20 million above the budget requests I have already submitted for the component agencies. These funds would be directed primarily to finding new ways to use volunteer services.

CONCLUSION

The early nineteenth century observer of America, Alexis de Tocqueville, was intrigued by the propensity of Americans to join together in promoting common purposes. "As soon as several of the inhabitants of the United States have taken up an opinion or a feeling which they wish to promote in the world, they look out for mutual assistance, and as soon as they have found one another out, they combine. From that moment they are no longer isolated men, but a power seen from afar * * *."

Though we have seen the success of Government volunteer efforts in the past ten years, I believe voluntary citizen service is still little more than a power seen from afar. In relation to its potential, this power is virtually undeveloped. We must develop it.

There are those today, as there always will be, who find infinite fault with life in this Nation and who conveniently forget that they share responsibility for the quality of life we lead. But our needs are too great for this attitude to be accepted. America belongs to all of its people. We are all responsible for the direction this Nation will take in the century ahead, for the quality of life we will lead and our children will lead. We are all responsible, whether we choose to be or not, for the survival and the success of the American experience and the American dream.

So there is little room for the luxury of making complaints without making commitments.

America must enlist the ideals, the energy, the experience, and the skills of its people on a larger scale than it ever has in the past. We must insure that these efforts be used to maximum advantage. We must insure that the desire to serve be linked with the opportunity to serve. We must match the vision of youth with the wisdom of experience. We must apply the understanding gained from foreign service to domestic needs, and we must extend what we learn in domestic service to other nations. And in all these endeavors, I believe, we can bring the power seen from afar to focus clearly on the problems and the promise of our time.

RICHARD NIXON.

THE WHITE HOUSE, March 24, 1971.

REORGANIZATION PLAN NO. 1 OF 1973

Eff. July 1, 1973, 38 F.R. 9579, 87 Stat. 1089, as amended May 11, 1976, Pub. L. 94-282, title V, § 502, 90 Stat. 472

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, January 26, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

EXECUTIVE OFFICE OF THE PRESIDENT

SECTION 1. TRANSFER OF FUNCTIONS TO THE PRESIDENT

Except as provided in section 3(a)(2) of this reorganization plan, there are hereby transferred to the President of the United States all functions vested by law in the Office of Emergency Preparedness or the Director of the Office of Emergency Preparedness after the effective date of Reorganization Plan No. 1 of 1958.

SEC. 2. [Repealed. Pub. L. 94-282, title V, § 502, May 11, 1976, 90 Stat. 472. Section transferred to the Director of the National Science Foundation all functions vested by law in the Office of Science and Technology or the Director or Deputy Director of the Office of Science and Technology.]

SEC. 3. ABOLITIONS

(a) The following are hereby abolished:

(1) The Office of Emergency Preparedness including the offices of Director, Deputy Director, and all offices of Assistant Director, and Regional Director of the Office of Emergency Preparedness provided for by sections 2 and 3 of Reorganization Plan No. 1 of 1958 (5 U.S.C., App.).

(2) The functions of the Director of the Office of Emergency Preparedness with respect to being a member of the National Security Council.

(3) The Civil Defense Advisory Council, created by section 102(a) of the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2272(a)), together with its functions.

(4) The National Aeronautics and Space Council, created by section 201 of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2471), including the office of Executive Secretary of the Council, together with its functions.

(5) The Office of Science and Technology, including the offices of Director and Deputy Director, provided for by sections 1 and 2 of Reorganization Plan No. 2 of 1962 (5 U.S.C., App.).

(b) The Director of the Office of Management and Budget shall make such provisions as he shall deem necessary respecting the winding up of any outstanding affairs of the agencies abolished by the provisions of this section.

SEC. 4. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available, or to be made available in connection with the functions transferred by sections 1 and 2 of this reorganization plan as the Director of the Office of Management and Budget shall determine shall be transferred at such time or times as he shall direct for use in connection with the functions transferred.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate the transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such agencies as he shall designate.

SEC. 5. EFFECTIVE DATE

The provisions of this reorganization plan shall take effect as provided by section 906(a) of title 5 of the United States Code, or on July 1, 1973, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

On January 5 I announced a three-part program to streamline the executive branch of the Federal Government. By concentrating less responsibility in the President's immediate staff and more in the hands of the departments and agencies, this program should significantly improve the services of the Government. I believe these reforms have become so urgently necessary that I intend, with the cooperation of the Congress, to pursue them with all of the resources of my office during the coming year.

The first part of this program is a renewed drive to achieve passage of my legislative proposals to overhaul the Cabinet departments. Secondly, I have appointed three Cabinet Secretaries as Counsellors to the President with coordinating responsibilities in the broad areas of human resources, natural resources, and community development, and five Assistants to the President with special responsibilities in the areas of domestic affairs, economic affairs, foreign affairs, executive management, and operations of the White House.

The third part of this program is a sharp reduction in the overall size of the Executive Office of the President and a reorientation of that office back to its original mission as a staff for top-level policy formation and monitoring of policy execution in broad functional areas. The Executive Office of the President should no longer be encumbered with the task of managing or administering programs which can be run more effectively by the departments and agencies. I have therefore concluded that a number of specialized operational and program functions should be shifted out of the Executive Office into the line departments and agencies of the Government. Reorganization Plan No. 1 of 1973, transmitted herewith, would effect such changes with respect to emergency preparedness functions and scientific and technological affairs.

STREAMLINING THE FEDERAL SCIENCE ESTABLISHMENT

When the National Science Foundation was established by an act of the Congress in 1950, its statutory responsibilities included evaluation of the Government's scientific research programs and development of basic science policy. In the late 1950's however, with the effectiveness of the U.S. science effort under serious scrutiny as a result of sputnik, the post of Science Advisor to the President was established. The White House became increasingly involved in the evaluation and coordination of research and development programs and in science policy matters, and that involvement was institutionalized in 1962 when a reorganization plan established the Office of Science and

Technology within the Executive Office of the President, through transfer of authorities formerly vested in the National Science Foundation.

With advice and assistance from OST during the past decade, the scientific and technological capability of the Government has been markedly strengthened. This administration is firmly committed to sustained, broad-based national effort in science and technology, as I made plain last year in the first special message on the subject ever sent by a Prsident to the Congress. The research and development capability of the various executive departments and agencies, civilian as well as defense, has been upgraded. The National Science Foundation has broadened from its earlier concentration on basic research support to take on a significant role in applied research as well. It has matured in its ability to play a coordinating and evaluative role within the Government and between the public and private sectors.

I have therefore concluded that it is timely and appropriate to transer to the Director of the National Science Foundation all functions presently vested in the Office of Science and Technology, and to abolish that office. Reorganization Plan No. 1 would effect these changes.

The multi-disciplinary staff resources of the Foundation will provide analytic capabilities for performance of the transferred functions. In addition, the Director of the Foundation will be able to draw on expertise from all of the Federal agencies, as well as from outside the Government, for assistance in carrying out his new responsibilities.

It is also my intention, after the transfer of responsibilities is effected, to ask Dr. H. Guyford Stever, the current Director of the Foundation, to take on the additional post of Science Adviser. In this capacity, he would advise and assist the White House, Office of Management and Budget, Domestic Council, and other entities within the Executive Office of the President on matters where scientific and technological expertise is called for, and would act as the President's representative in selected cooperative programs in international scientific affairs, including chairing such joint bodies as the U.S.-U.S.S.R. Joint Commission on Scientific and Technical Cooperation.

In the case of national security, the Department of Defense has strong capabilities for assessing weapons needs and for undertaking new weapons development, and the President will continue to draw primarily on this source for advice regarding military technology. The President in special situations also may seek independent studies or assessments concerning military technology from within or outside the Federal establishment, using the machinery of the National Security Council for this purpose, as well as the Science Adviser when appropriate.

In one special area of technology—space and aeronautics—a coordinating council has existed within the Executive Office of the President since 1958. This body, the National Aeronautics and Space Council, met a major need during the evolution of our nation's space program. Vice President Agnew has served with distinction as its chairman for the past four years. At my request, beginning in 1969, the Vice President also chaired a special Space Task Group charged with developing strategy alternatives for a balanced U.S. space program in the coming years.

As a result of this work, basic policy issues in the United States space effort have been resolved, and the necessary interagency relationships have been established. I have therefore concluded, with the Vice President's concurrence, that the Council can be discontinued. Needed policy coordination can now be achieved through the resources of the executive departments and agencies, such as the National Aeronautics and Space Administration, augmented by some of the former Council staff. Accordingly, my reorganization plan proposes the abolition of the National Aeronautics and Space Council.

A NEW APPROACH TO EMERGENCY PREPAREDNESS

The organization within the Executive Office of the President which has been known in recent years as the Office of Emergency Preparedness dates back, through its numerous predecessor agencies, more than 20 years. It has performed valuable functions in developing plans for emergency preparedness, in administering Federal disaster relief, and in overseeing and assisting the agencies in this area.

OEP's work as a coordinating and supervisory authority in this field has in fact been so effective—particularly under the leadership of General George A. Lincoln, its director for the past four years, who retired earlier this month after an exceptional military and public service career—that the line departments and agencies which in the past have shared in the performance of the various preparedness functions now possess the capability to assume full responsibility for those functions. In the interest of efficiency and economy, we can now further streamline the Executive Office of the President by formally relocating those responsibilities and closing the Office of Emergency Preparedness.

I propose to accomplish this reform in two steps. First, Reorganization Plan No. 1 would transfer to the President all functions previously vested by law in the Office or its Director, except the Director's role as a member of the National Security Council, which would be abolished; and it would abolish the Office of Emergency Preparedness.

The functions to be transferred to the President from OEP are largely incidental to emergency authorities already vested in him. They include functions under the Disaster Relief Act of 1970; the function of determining whether a major disaster has occurred within the meaning of (1) Section 7 of the Act of September 30, 1950, as amended, 20 U.S.C. 241-1, or (2) Section 762(a) of the Higher Education Act of 1965, as added by Section 161(a) of the Education Amendments of 1972, Public Law 92-318, 86 Stat. 288 at 299 (relating to the furnishing by the Commissioner of Education of disaster relief assistance for educational purposes); and functions under Section 232 of the Trade Expansion Act of 1962, as amended (19 U.S.C. 1862), with respect to the conduct of investigations to determine the effects on national security of the importation of certain articles.

The Civil Defense Advisory Council within OEP would also be abolished by this plan, as changes in domestic and international conditions since its establishment in 1950 have now obviated the need for a standing council of this type. Should advice of the kind the Council has provided be required again in the future, State and local officials and experts in the field can be consulted on an ad hoc basis.

Second, as soon as the plan became effective, I would delegate OEP's former functions as follows:

> All OEP responsibilities having to do with preparedness for and relief of civil emergencies and disasters would be transferred to the Department of Housing and Urban Development. This would provide greater field capabilities for coordination of Federal disaster assistance with that provided by States and local communities, and would be in keeping with the objective of creating a broad, new Department of Community Development.
>
> OEP's responsibilities for measures to ensure the continuity of civil government operations in the event of major military attack would be reassinged to the General Services Administration, as would responsibility for resource mobilization including the management of national security stockpiles, with policy guidance in both cases to be provided by the National Security Council, and with economic considerations relating to changes in stockpile levels to be coordinated by the Council on Economic Policy.
>
> Investigations of imports which might threaten the national security—assigned to OEP by Section 232 of the Trade Expansion Act of 1962—would be reassinged to the Treasury Department, whose other

trade studies give it a readymade capability in this field; the National Security Council would maintain its supervisory role over strategic imports.

Those disaster relief authorities which have been reserved to the President in the past, such as the authority to declare major disasters, will continue to be exercised by him under these new arrangements. In emergency situations calling for rapid interagency coordination, the Federal response will be coordinated by the Executive Office of the President under the general supervision of the Assistant to the President in charge of executive management.

The Oil Policy Committee will continue to function as in the past, unaffected by this reorganization, except that I will designate the Deputy Secretary of the Treasury as chairman in place of the Director of OEP. The committee will operate under the general supervision of the Assistant to the President in charge of economic affairs.

DECLARATIONS

After investigation, I have found that each action included in the accompanying plan is necessary to accomplish one or more of the purposes set forth in Section 901(a) of title 5 of the United States Code. In particular, the plan is responsive to the intention of the Congress as expressed in Section 901(a)(1), "to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;" and in Section 901(a)(3), "to increase the efficiency of the operations of the Government to the fullest extent practicable;" and in Section 901(a)(5), "to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government."

While it is not practicable to specify all of the expenditure reductions and other economies which will result from the actions proposed, personnel and budget savings from abolition of the National Aeronautics and Space Council and the Office of Science and Technology alone will exceed $2 million annually, and additional savings should result from a reduction of Executive Pay Schedule positions now associated with other transferred and delegated functions.

The plan has as its one logically consistent subject matter the streamlining of the Executive Office of the President and the disposition of major responsibilities currently conducted in the Executive Office of the President, which can better be performed elsewhere or abolished.

The functions which would be abolished by this plan, and the statutory authorities for each, are:

(1) the functions of the Director of the Office of Emergency Preparedness with respect to being a member of the National Security Council (Sec. 101, National Security Act of 1947, as amended, 50 U.S.C. 402; and Sec. 4, Reorganization Plan No. 1 of 1958);

(2) the functions of the Civil Defense Advisory Council (Sec. 102(a) Federal Civil Defense Act of 1950; 50 U.S.C. App. 2272(a)); and

(3) the functions of the National Aeronautics and Space Council (Sec. 201, National Aeronautics and Space Act of 1958; 42 U.S.C. 2471).

The proposed reorganization is a necessary part of the restructuring of the Executive Office of the President. It would provide through the Director of the National Science Foundation a strong focus for Federal efforts to encourage the development and application of science and technology to meet national needs. It would mean better preparedness for and swifter response to civil emergencies, and more reliable precautions against threats to the national security. The leaner and less diffuse Presidential staff structure which would result would enhance the President's ability to do his job and would advance the interests of the Congress as well.

I am confident that this reorganization plan would significantly increase the overall efficiency and effectiveness of the Federal Government. I urge the Congress to allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, January 26, 1973.

REORGANIZATION PLAN NO. 2 OF 1973

Eff. July 1, 1973, 38 F.R. 15932, 87 Stat. 1091, as amended Pub. L. 93-253, § 1, Mar. 16, 1974, 88 Stat. 50

Prepared by the President and transmitted to the Senate and the House of Representatives in Congress assembled, March 28, 1973, pursuant to the provisions of Chapter 9 of Title 5 of the United States Code.

LAW ENFORCEMENT IN ILLICIT DRUG ACTIVITIES

SECTION 1. TRANSFERS TO THE ATTORNEY GENERAL

There are hereby transferred from the Secretary of the Treasury, the Department of the Treasury, and any other officer or any agency of the Department of the Treasury, to the Attorney General all intelligence, investigative, and law enforcement functions, vested by law in the Secretary, the Department, officers, or agencies which relate to the suppression of illicit traffic in narcotics, dangerous drugs, or marihuana, except that the Secretary shall retain, and continue to perform, those functions, to the extent that they relate to searches and seizures of illicit narcotics, dangerous drugs, or marihuana or to the apprehension or detention of persons in connection therewith, at regular inspection locations at ports of entry or anywhere along the land or water borders of the United States: *Provided*, that any illicit narcotics, dangerous drugs, marihuana, or related evidence seized, and any person apprehended or detained by the Secretary or any officer of the Department of the Treasury, pursuant to the authority retained in them by virtue of this section, shall be turned over forthwith to the jurisdiction of the Attorney General; *Provided further*, that nothing in this section shall be construed as limiting in any way any authority vested by law in the Secretary of the Treasury, the Department of the Treasury, or any other officer or any agency of that Department on the effective date of this Plan with respect to contraband other than illicit narcotics, dangerous drugs, and marihuana: and *Provided further*, that nothing in this section shall be construed as limiting in any way any authority the Attorney General, the Department of Justice, or any other officer or any agency of that Department may otherwise have to make investigations or engage in law enforcement activities, including activities relating to the suppression of illicit traffic in narcotics, dangerous drugs, and marihuana, at ports of entry or along the land and water borders of the United States.

SEC. 2. TRANSFERS TO THE SECRETARY OF THE TREASURY

[Repealed. Pub. L. 93-253, § 1(a)(1), (b), Mar. 16, 1974, 88 Stat. 50, eff. July 1, 1973. Section had provided for transfer to Secretary of Treasury of functions vested in Attorney General, Department of Justice, or any other officer of such Department respecting inspection at ports of entry of persons, and documents of persons, entering or leaving the United States.]

SEC. 3. ABOLITION

The Bureau of Narcotics and Dangerous Drugs, including the Office of Director thereof, is hereby abolished, and section 3(a) of Reorganization Plan No. 1 of 1968 is hereby repealed. The Attorney General shall make such provision as he may deem necessary with respect to terminating those affairs of the Bureau of Narcotics and Dangerous Drugs not otherwise provided for in the Reorganization Plan.

SEC. 4. DRUG ENFORCEMENT ADMINISTRATION

There is established in the Department of Justice an agency which shall be known as the Drug Enforcement Administration, hereinafter referred to as "the Administration."

SEC. 5. OFFICERS OF THE ADMINISTRATION

(a) There shall be at the head of the Administration the Administrator of Drug Enforcement, hereinafter referred to as "the Administrator." The Administrator shall be appointed by the President by and with the advice and consent of the Senate, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level III of the Executive Schedule Pay Rates (5 U.S.C. 5314). He shall perform such functions as the Attorney General shall from time to time direct.

(b) There shall be in the Administration a Deputy Administrator of the Drug Enforcement Administration, hereinafter referred to as "the Deputy Administrator," who shall be appointed by the President by and with the advice and consent of the Senate, shall perform such functions as the Attorney General may from time to time direct, and shall receive compensation at the rate now or hereafter prescribed by law for positions of level V of the Executive Schedule Pay Rates (5 U.S.C. 5316).

(c) The Deputy Administrator or such other official of the Department of Justice as the Attorney General shall from time to time designate shall act as Administrator during the absence or disability of the Administrator or in the event of a vacancy in the office of Administrator.

SEC. 6. PERFORMANCE OF TRANSFERRED FUNCTIONS

The Attorney General may from time to time make such provisions as he shall deem appropriate authorizing the performance of any of the functions transferred to him by the provisions of this Reorganization Plan by any officer, employee, or agency of the Department of Justice.

[Section, formerly subsec. (a), so designated and former subsec. (b) providing for performance of functions transferred to Secretary of Treasury by any officer, employee, or agency of Treasury Department, repealed by Pub. L. 93-253, § 1(a)(2), (b), Mar. 16, 1974, 88 Stat. 50, eff. July 1, 1973.]

SEC. 7. COORDINATION

The Attorney General, acting through the Administrator and such other officials of the Department of Justice as he may designate, shall provide for the coordination of all drug law enforcement functions vested in the Attorney General so as to assure maximum cooperation between and among the Administration, the Federal Bureau of Investigation, and other units of the Department involved in the performance of these and related functions.

SEC. 8. INCIDENTAL TRANSFERS

(a) So much of the personnel, property, records, and unexpended balances of appropriations, allocations, and other funds employed, used, held, available or to be made available in connection with the functions transferred to the Attorney General by this Reorganization Plan as the Director of the Office of Management and Budget shall determine shall be transferred to the Department of Justice at such time or times as the Director shall direct.

(b) Such further measures and dispositions as the Director of the Office of Management and Budget shall deem to be necessary in order to effectuate transfers referred to in subsection (a) of this section shall be carried out in such manner as he shall direct and by such Federal agencies as he shall designate.

SEC. 9. INTERIM OFFICERS

(a) The President may authorize any person who, immediately prior to the effective date of this Reorganization Plan, held a position in the Executive Branch of the Government to act as Administrator until the office of Administrator is for the first time filled pursuant to the provisions of this Reorganization Plan or by recess appointment as the case may be.

(b) The President may similarly authorize any such person to act as Deputy Administrator.

(c) The President may authorize any person who serves in an acting capacity under the foregoing provisions of this section to receive the compensation attached to the office in respect to which he so serves. Such compensation, if authorized, shall be in lieu of, but not in addition to, other compensation from the United States to which such person may be entitled.

SEC. 10. EFFECTIVE DATE

The provisions of this Reorganization Plan shall take effect as provided by section 906(a) of title 5 of the United States Code or on July 1, 1973, whichever is later.

MESSAGE OF THE PRESIDENT

To the Congress of the United States:

Drug abuse is one of the most vicious and corrosive forces attacking the foundations of American society today. It is a major cause of crime and a merciless destroyer of human lives. We must fight it with all of the resources at our command.

This Administration has declared all-out, global war on the drug menace. As I reported to the Congress earlier this month in my State of the Union message, there is evidence of significant progress on a number of fronts in that war.

Both the rate of new addiction to heroin and the number of narcotic-related deaths showed an encouraging downturn last year. More drug addicts and abusers are in treatment and rehabilitation programs than ever before.

Progress in pinching off the supply of illicit drugs was evident in last year's stepped-up volume of drug seizures worldwide—which more than doubled in 1972 over the 1971 level.

Arrests of traffickers have risen by more than one-third since 1971. Prompt Congressional action on my proposal for mandatory minimum sentences for pushers of hard drugs will help ensure that convictions stemming from such arrests lead to actual imprisonment of the guilty.

Notwithstanding these gains, much more must be done. The resiliance of the international drug trade remains grimly impressive—current estimates suggest that we still intercept only a small fraction of all the heroin and cocaine entering this country. Local police still find that more than one of every three suspects arrested for street crimes is a narcotic abuser or addict. And the total number of Americans addicted to narcotics, suffering terribly themselves and inflicting their suffering on countless others, still stands in the hundreds of thousands.

A UNIFIED COMMAND FOR DRUG ENFORCEMENT

Seeking ways to intensify our counter-offensive against this menace, I am asking the Congress today to join with this Administration in strengthening and streamlining the Federal drug law enforcement effort.

Funding for this effort has increased sevenfold during the past five years, from $36 million in fiscal year 1969 to $257 million in fiscal year 1974—more money is not the most pressing enforcement need at present. Nor is there a primary need for more manpower working on the problem, over 2100 new agents having already been added to the Federal drug enforcement agencies under this Administration, an increase of more than 250 percent over the 1969 level.

The enforcement work could benefit significantly, however, from consolidation of our anti-drug forces under a single unified command. Right now the Federal Government is fighting the war on drug abuse under a distinct handicap, for its efforts are those of a loosely confederated alliance facing a resourceful, elusive, worldwide enemy. Admiral Mahan, the master naval strategist, described this handicap precisely when he wrote that "Granting the same aggregate of force, it is never as great in two hands as in one, because it is not perfectly concentrated."

More specifically, the drug law enforcement activities of the United States now are not merely in two hands but in half a dozen. Within the Department of Justice, with no overall direction below the level of the Attorney General, these fragmented forces include the Bureau of Narcotics and Dangerous Drugs, the Office for Drug Abuse Law Enforcement, the Office of National Narcotics Intelligence, and certain activities of the Law Enforcement Assistance Administration. The Treasury Department is also heavily engaged in enforcement work through the Bureau of Customs.

This aggregation of Federal activities has grown up rapidly over the past few years in response to the urgent need for stronger anti-drug measures. It has enabled us to make a very encouraging beginning in the accelerated drug enforcement drive of this Administration.

But it also has serious operational and organizational shortcomings. Certainly the cold-blooded underworld networks that funnel narcotics from suppliers all over the world into the veins of American drug victims are no respecters of the bureaucratic dividing lines that now complicate our anti-drug efforts. On the contrary, these modern-day slave traders can derive only advantage from the limitations of the existing organizational patchwork. Experience has now given us a good basis for correcting those limitations, and it is time to do so.

I therefore propose creation of a single, comprehensive Federal agency within the Department of Justice to lead the war against illicit drug traffic.

Reorganization Plan No. 2 of 1973, which I am transmitting to the Congress with this message, would establish such an agency, to be called the Drug Enforcement Administration. It would be headed by an Administrator reporting directly to the Attorney General.

The Drug Enforcement Administration would carry out the following anti-drug functions, and would absorb the associated manpower and budgets:

—All functions of the Bureau of Narcotics and Dangerous Drugs (which would be abolished as a separate entity by the reorganization plan);

—Those functions of the Bureau of Customs pertaining to drug investigations and intelligence (to be transferred from the Treasury Department to the Attorney General by the reorganization plan);

—All functions of the Office for Drug Abuse Law Enforcement; and

—All functions of the Office of National Narcotics Intelligence.

Merger of the latter two organizations into the new agency would be effected by an executive order dissolving them and transferring their functions, to take effect upon approval of Reorganization Plan No. 2 by the Congress. Drug law enforcement research currently funded by the Law Enforcement Assistance Administration and other agencies would also be transferred to the new agency by executive action.

The major responsibilities of the Drug Enforcement Administration would thus include:

—development of overall Federal drug law enforcement strategy, programs, planning, and evaluation;

—full investigation and preparation for prosecution of suspects for violations under all Federal drug trafficking laws;

—full investigation and preparation for prosecution of suspects connected with illicit drugs seized at U.S. ports-of-entry and international borders;

—conduct of all relations with drug law enforcement officials of foreign governments, under the policy guidance of the Cabinet Committee on International Narcotics Control;

—full coordination and cooperation with State and local law enforcement officials on joint drug enforcement efforts; and

—regulation of the legal manufacture of drugs and other controlled substances under Federal regulations.

The Attorney General, working closely with the Administrator of this new agency, would have authority to make needed program adjustments. He would take steps within the Department of Justice to ensure that high priority emphasis is placed on the prosecution and sentencing of drug traffickers following their apprehension by the enforcement organization. He would also have the authority and responsibility for securing the fullest possible cooperation—particularly with respect to collection of drug intelligence—from all Federal departments and agencies which can contribute to the anti-drug work, including the Internal Revenue Service and the Federal Bureau of Investigation.

My proposals would make possible a more effective anti-drug role for the FBI, especially in dealing with the relationship between drug trafficking and organized crime. I intend to see that the resources of the FBI are fully committed to assist in supporting the new Drug Enforcement Administration.

The consolidation effected under Reorganization Plan No. 2 would reinforce the basic law enforcement and criminal justice mission of the Department of Justice. With worldwide drug law enforcement responsibilities no longer divided among several organizations in two different Cabinet departments, more complete and cumulative drug law enforcement intelligence could be compiled. Patterns of international and domestic illicit drug production, distribution, and sale could be more directly compared and interpreted. Case-by-case drug law enforcement activities could be more comprehensively linked, cross-referenced, and coordinated into a single, organic enforcement operation. In short, drug law enforcement officers would be able to spend more time going after the traffickers and less time coordinating with one another.

Such progress could be especially helpful on the international front. Narcotics control action plans, developed under the leadership of the Cabinet Committee on International Narcotics Control, are now being carried out by U.S. officials in cooperation with host governments in 59 countries around the world. This wide-ranging effort to cut off drug supplies before they ever reach U.S. borders or streets is just now beginning to bear fruit. We can enhance its effectiveness, with little disruption of ongoing enforcement activities, by merging both the highly effective narcotics force of overseas Customs agents and the rapidly developing international activities of the Bureau of Narcotics and Dangerous Drugs into the Drug Enforcement Administration. The new agency would work closely with the Cabinet Committee under the active leadership of the U.S. Ambassador in each country where anti-drug programs are underway.

Two years ago, when I established the Special Action Office for Drug Abuse Prevention within the Executive Office of the President, we gained an organization with the necessary resources, breadth, and leadership capacity to begin dealing decisively with the "demand" side of the drug abuse problem—treatment and rehabilitation for those who have been drug victims, and preventive programs for potential drug abusers. This year, by permitting my reorganization proposals to take effect, the Congress can help provide a similar capability on the "supply" side. The proposed Drug Enforcement Administration, working as a team with the Special Action Office, would arm Americans with a potent one-two punch to help us fight back against the deadly menace of drug abuse. I ask full Congressional cooperation in its establishment.

IMPROVING PORT-OF-ENTRY INSPECTIONS

No heroin or cocaine is produced within the United States; domestic availability of these substances results solely from their illegal importation. The careful and complete inspection of all persons and goods coming into the United States is therefore an integral part of effective Federal drug law enforcement.

At the present time, however, Federal responsibility for conducting port-of-entry inspections is awkwardly divided among several Cabinet departments. The principal agencies involved are the Treasury Department's Bureau of Customs, which inspects goods, and the Justice Department's Immigration and Naturalization Service, which inspects persons and their papers. The two utilize separate inspection procedures, hold differing views of inspection priorities, and employ dissimilar personnel management practices.

To reduce the possibility that illicit drugs will escape detection at ports-of-entry because of divided responsibility, and to enhance the effectiveness of the Drug Enforcement Administration, the reorganization plan which I am proposing today would transfer to the Secretary of the Treasury all functions currently vested in Justice Department officials to inspect persons, or the documents of persons.

When the plan takes effect, it is my intention to direct the Secretary of the Treasury to use the resources so transferred—including some 1,000 employees of the Immigration and Naturalization Service—to augment the staff and budget of the Bureau of Customs. The Bureau's primary responsibilities would then include:

—inspection of all persons and goods entering the United States;
—valuation of goods being imported, and assessment of appropriate tariff duties;
—interception of contraband being smuggled into the United States;
—enforcement of U.S. laws governing the international movement of goods, except the investigation of contraband drugs and narcotics; and
—turning over the investigation responsibility for all drug law enforcement cases to the Department of Justice.

The reorganization would thus group most port-of-entry inspection functions in a single Cabinet department. It would reduce the need for much day-to-day interdepartmental coordination, allow more efficient staffing at some field locations, and remove the basis for damaging inter-agency rivalries. It would also give the Secretary of the Treasury the authority and flexibility to meet changing requirements in inspecting the international flow of people and goods. An important by-product of the change would be more convenient service for travellers entering and leaving the country.

For these reasons, I am convinced that inspection activities at U.S. ports-of-entry can more effectively support our drug law enforcement efforts if concentrated in a single agency. The processing of persons at ports-of-entry is too closely interrelated with the inspection of goods to remain organizationally separated from it any longer. Both types of inspections have numerous objectives besides drug law enforcement, so it is logical to vest them in the Treasury Department, which has long had the principal responsibility for port-of-entry inspection of goods, including goods being transported in connection with persons. As long as the inspections are conducted with full awareness of related drug concerns it is neither necessary nor desirable that they be made a responsibility of the primary drug enforcement organization.

DECLARATIONS

After investigation, I have found that each action included in Reorganization Plan No. 2 of 1973 is necessary to accomplish one or more of the purposes set forth in Section 901(a) of Title 5 of the United States Code. In particular, the plan is responsive to the intention of the Congress as expressed in Section 901(a)(1): "to promote better execution of the laws, more effective management of the executive branch and of its agencies and functions, and expeditious administration of the public business;" Section 901(a)(3): "to increase the efficiency of the operations of the Government to the fullest extent practicable;" Section 901(a)(5): "to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions as may not be necessary for the efficient conduct of the Government;" and Section 901(a)(6): "to eliminate overlapping and duplication of effort."

As required by law, the plan has one logically consistent subject matter: consolidation of Federal drug law enforcement activities in a manner designed to increase their effectiveness.

The plan would establish in the Department of Justice a new Administration designated as the Drug Enforcement Administration. The reorganizations provided for in the plan make necessary the appointment and compensation of new officers as specified in Section 5 of the plan. The rates of compensation fixed for these officers would be comparable to those fixed for officers in the executive branch who have similar responsibilities.

While it is not practicable to specify all of the expenditure reductions and other economies which may result from the actions proposed, some savings may be anticipated in administrative costs now associated with the functions being transferred and consolidated.

The proposed reorganization is a necessary step in upgrading the effectiveness of our Nation's drug law enforcement effort. Both of the proposed changes would build on the strengths of established agencies, yielding maximum gains in the battle against drug abuse with minimum loss of time and momentum in the transition.

I am confident that this reorganization plan would significantly increase the overall efficiency and effectiveness of the Federal Government. I urge the Congress to allow it to become effective.

RICHARD NIXON.

THE WHITE HOUSE, March 28, 1973.